

**AN OVERVIEW OF CAMBODIA AND THE NEED  
FOR DEBT RECYCLING: HOW CAN THE U.S.  
BE OF ASSISTANCE?**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON ASIA, THE PACIFIC, AND  
THE GLOBAL ENVIRONMENT  
OF THE  
COMMITTEE ON FOREIGN AFFAIRS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED TENTH CONGRESS  
FIRST SESSION

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## **AN OVERVIEW OF CAMBODIA AND THE NEED FOR DEBT RECYCLING: HOW CAN THE U.S. BE OF ASSISTANCE?**

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**THURSDAY, FEBRUARY 14, 2008**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON ASIA, THE PACIFIC,  
AND THE GLOBAL ENVIRONMENT,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:05 p.m. in room 2200, Rayburn House Office Building, Hon. Eni Faleomavaega (chairman of the subcommittee) presiding.

Mr. FALEOMAVAEGA. The subcommittee hearing will come to order.

I know my good friend, the ranking member of our subcommittee, Mr. Manzullo, is at a floor vote, and I am sure that he will be joining us shortly after the completion of the vote on the floor of the House.

I do want to welcome our distinguished witnesses this afternoon to testify on this subject matter that has now been brought before the Subcommittee on Asia, the Pacific, and the Global Environment. I will begin with my opening statement, and hopefully we will then do the dialogue from there.

Recently I had the opportunity to visit Cambodia. I am convinced that no person of conscience could walk away from the experience without wanting to lend a helping hand. There is not an individual now living in Cambodia who has not in some way been impacted by the atrocities or crimes against humanity committed by the communist movement known as the Khmer Rouge, which ruled Cambodia from 1975 to 1979.

Led by Pol Pot, also known as Brother Number One, the Khmer Rouge was one of the most brutal regimes of the twentieth century. Responsible for the deaths of an estimated 1.7 million people out of a population of only about 7.5 million, its heartless motto was, "To keep you is no benefit. To destroy you is no loss."

While we could debate, like historians are now doing, whether or not the U.S. bombing campaign from 1965 to 1973 and the suspension of United States aid to Cambodia in 1973 led to Pol Pot's rise, and while we can take issue with Prime Minister Hun Sen's seizure of power in 1997 and the serious problems associated with his government even today, I would like to begin the first of our hearings this year by putting politics aside and focusing on how we might

be of assistance to our brothers and sisters in Cambodia who have suffered enough.

To those who think we should turn a blind eye, I would invite you to visit the Toul Sleng prison where men, women and children and families like yours and mine were systematically tortured and slaughtered by suffocation and skinning a person alive. To this day, I cannot erase from my mind the images of Toul Sleng.

Neither can I forget the killing fields where I saw massive graves of some 9,000 bodies buried one on top of the other, a sickening reminder that the Khmer Rouge had beaten to death or buried alive innocent people whose blood now cries up to God for justice that most assuredly would and should come.

According to His Excellency Cham Prasidh, Cambodia's Minister of Commerce, who lost both parents to the Khmer Rouge, only 69 intellectuals survived this genocide. From ashes, Cambodia has been forced to rebuild and has looked to anyone to help. In my discussions with Minister Prasidh I was particularly struck by his words when he said, and I quote, "When you are drowning, you do not care about the color of the hand that is saving you."

These days the People's Republic of China is one of the largest sources of foreign assistance to Cambodia, lending a hand of some \$800 million in aid and loans from the year 2006 to 2007. The United States provided a little over \$100 million in the same time period.

What does this kind of disparity in support mean for United States-Cambodia relations or United States security interests in the region? The Congressional Research Service reports, and I quote, "For several years the United States remained the only major donor country that had not resumed bilateral or government-to-government aid to Cambodia."

I commend the Bush administration for lifting a 10-year ban on direct bilateral aid to Cambodia in February of last year, and I am hopeful that we can do more. Specifically, I am hopeful that we can forgive or recycle Cambodia's debt to the United States.

The United States Department of Agriculture states that it provided commodities totaling \$276 million to Cambodia by way of loan during the Lon Nol period from 1970 to 1975. Again, I want to remind my colleagues that shortly after taking out this loan from the United States the Khmer Rouge wiped out the lives of more than 1.7 million Cambodians. I also want to remind my colleagues that historians suggest that the United States may have even been responsible partially for the rise of Pol Pot and the Khmer Rouge.

Having said this, it is almost incomprehensible to me how the United States, a Christian country with principles, could demand that Cambodia pay back this loan with interest now totaling \$339 million. Such a request by the United States, in my humble opinion, reminds me of the parable of the unforgiving servant.

We read in the Book of Matthew that a servant owed his king an amount so large he could not repay, but out of compassion the king forgave him the debt. But the same servant went out and found one of his fellow servants which owed him a small amount and laid hands on him and took him by the throat saying, "Pay me

what you owe.” The fellow servant pleaded for mercy, but he cast him in prison until when he should pay the debt.

So when the fellow servants saw what was done they were very sorry and reported to the king all what was done. The king, after he had called him, said unto him: O thou wicked servant, I forgave thee for your debts. Should not thou also have had the same compassion for thy fellow servant, even as I had pity on thee?

Ladies and gentlemen, in my humble opinion, when the United States is partly responsible for the rise of Pol Pot and the Khmer Rouge, I believe we have a large debt that we cannot repay. I also believe it makes us unforgiving servants to take Cambodia by the throat and demand that it pay the small debt it owes.

Cambodia’s debt is not a new debt accumulated by its current administration, which seized power by force. Cambodia’s is an old debt accumulated between 1970 to 1975 and most likely expended by the Khmer Rouge from the years 1975 to 1979.

If the United States, my country, really wants its penny back, extract it from the Khmer Rouge who have been arrested and charged with crimes against humanity. Do not take it from a people struggling to get back on their feet.

Yes, Cambodia needs to correct what is wrong in its government and rid itself of corruption, but that is not the subject of this hearing. This hearing is about whether or not the United States should demand that Cambodia pay the small debt it owes. If the United States, knowing Cambodia’s history and our role in that history, insists on Cambodia paying what it owes then certainly at a minimum we can forgive the interest and recycle the debt.

As I have said many times before, I do not believe the United States gives enough attention to the Asia-Pacific region, the attention it deserves, and the need for debt recycling in Cambodia is a case in point. By our failure to assist Cambodia we are unintentionally inviting Cambodia to partner with others who may not necessarily share our ideologies, our principles. This does not bode well for our own interests in the region of the world.

I believe we must do a better job, as I had invited our United States Treasury officials to do its part when it comes to Cambodia. However, I am very disappointed that the United States Treasury, the lead agency on this issue, was unable to provide a witness for today’s hearing given the importance of this subject and that people are suffering in Cambodia as we speak.

Regardless of whether or not our Treasury has a small staff, I think it sends the wrong message that a principal player in this discussion was unable to provide a witness. Not even a witness. Not even a statement for the record concerning this very issue.

I do appreciate Assistant Secretary Scot Marciel from the U.S. State Department, who is with us. I also appreciate the work of our United States Ambassador, Joseph Mussomeli, in doing an excellent job in Cambodia in promoting some corrections that need to be taken in this debt recycling. I also want to thank the U.S. Department of Agriculture for being here with us.

I look forward to hearing from our witnesses, and I also wanted to say that in the years past that I also had the distinction of knowing a gentleman who came through the killing fields of Cambodia, came to America, became a United States citizen and also

even became as a staff person to the White House, my good friend now as he served previously also as ambassador, U.S. Ambassador to the United Nations on Global Activities, my good friend, Sichan Siv.

I want to say personally hello to Sichan Siv wherever he is living right now. I don't know if he is here, but I want to let him know that I have not forgotten the discussions and the times that we spent together in the years past about his country, Cambodia, and what has happened.

I sincerely hope that we will come to a better resolution to this problem of the debt owed by Cambodia since during the time that the Pol Pot was in existence. I know that our country is very forgiving. I remember a couple of years ago we had forgiven Jordan \$500 million in debt owing to our country.

I think if we put it in proper perspective and an understanding that the people of Cambodia are suffering, the country is trying to put itself together, I think it really should be something that our leaders and our country should do the same in giving the kind of assistance the people and the leaders of Cambodia really need to help them along in trying to put themselves together after this terrible experience that they were confronted with under the Pol Pot regime.

[The prepared statement of Mr. Faleomavaega follows:]

PREPARED STATEMENT OF THE HONORABLE ENI F.H. FALEOMAVAEGA, A REPRESENTATIVE IN CONGRESS FROM AMERICAN SAMOA, AND CHAIRMAN, SUBCOMMITTEE ON ASIA, THE PACIFIC, AND THE GLOBAL ENVIRONMENT

Recently, I had the opportunity to visit Cambodia and I am convinced that no person of conscience could walk away from the experience without wanting to lend a helping hand. There is not an individual now living in Cambodia who has not in some way been impacted by the atrocities or crimes against humanity committed by the communist movement known as the Khmer Rouge which ruled Cambodia from 1975–1979.

Led by Pol Pot, also known as Brother Number One, the Khmer Rouge was one of the most brutal regimes of the 20th century. Responsible for the deaths of an estimated 1.7 million people out of a population of only about 7.5 million, its heartless motto was “To keep you is no benefit. To destroy you is no loss.”

While we could debate, like historians are now doing, whether or not the U.S. bombing campaign from 1965–1973 and the suspension of U.S. aid to Cambodia in 1973 led to Pol Pot's rise, and while we can take issue with Prime Minister Hun Sen's seizure of power in 1997 and the serious problems associated with his government today, I would like to begin the first of our hearings this year by putting politics aside and focusing on how we might be of assistance to our brothers and sisters in Cambodia who have suffered enough.

To those who think we should turn a blind eye, I would invite you to visit the Toul Sleng prison where men, women, and children, and families, like yours and mine, were systematically tortured and slaughtered by suffocation and skinning a person alive. To this day, I cannot erase from my mind the images of Toul Sleng. Neither can I forget the killing fields where I saw massive graves of some 9,000 bodies buried one on top of the other, a sickening reminder that the Khmer Rouge had beaten to death or buried alive innocent people whose blood now cries up to God for justice that most assuredly will come.

According to His Excellency Cham Prasidh, Cambodia's Minister of Commerce, who lost both parents to the Khmer Rouge, only 69 intellectuals survived this genocide. From ashes, Cambodia has been forced to rebuild, and has looked to anyone to help. In my discussions with Minister Prasidh, I was particularly struck by his words when he said, “When you are drowning, you do not care about the color of the hand that is saving you.”

These days, China is one of the largest sources of foreign assistance to Cambodia lending a hand of \$800 million in aid and loans in 2006–2007. The United States provided a little over \$100 million in the same time period. What does this kind of

disparity in support mean for U.S.-Cambodia relations, or U.S. security interests in the region? CRS reports that “for several years the United States remained the only major donor country that had not resumed bilateral or government-to-government aid to Cambodia.” I commend the Bush Administration for lifting a ten-year ban on direct bilateral aid to Cambodia in February of 2007, and I am hopeful that we can do more. Specifically, I am hopeful that we can forgive or recycle Cambodia’s debt to the U.S.

The United States Department of Agriculture (USDA) states that it provided commodities totaling \$276 million to Cambodia by way of loan during the Lon Nol period from 1970–1975. Again, I want to remind my colleagues that shortly after taking out this loan from the U.S., the Khmer Rouge wiped out the lives of more than 1.7 million Cambodians. I also want to remind my colleagues that historians suggest that the U.S. was in part responsible for the rise of Pol Pot and the Khmer Rouge.

Having said this, it is almost incomprehensible to me how the U.S., a country built on Judeo-Christian principles, could demand that Cambodia pay back this loan with interest now totaling \$339 million. Such a request by the United States reminds me of the parable of the unforgiving servant. In Matthew, we read that a servant owed his king an amount so large he could not repay but, out of compassion, the king forgave him the debt. But the same servant went out, and found one of his fellow servants, which owed him a small amount, and he laid hands on him, and took him by the throat, saying, “Pay me what you owe.” The fellow servant pleaded for mercy but he cast him in prison till he should pay the debt. So when his fellow servants saw what was done, they were very sorry, and reported unto the king all that was done. Then the king, after he had called him, said unto him, O thou wicked servant, I forgave thee all that debt. Shouldst not thou also have had compassion on thy fellow servant, even as I had pity on thee?

In my humble opinion, when the U.S. is partly responsible for the rise of Pol Pot and the Khmer Rouge, I believe we have a large debt that we cannot pay. I also believe it makes us unforgiving servants to take Cambodia by the throat and demand that it pay the small debt it owes. Cambodia’s debt is not a new debt accumulated by its current administration which seized power by force. Cambodia’s is an old debt accumulated between 1970–1975 and, most likely, expended by the Khmer Rouge from 1975–1979. If the U.S. really wants its penny back, extract it from the Khmer Rouge who have been arrested and charged with crimes against humanity. Do not take it from a people struggling to get back on their feet.

Yes, Cambodia needs to correct what is wrong in its government and rid itself of corruption but that is not the subject of this hearing. This hearing is about whether or not the U.S. should demand that Cambodia pay the small debt it owes. If the U.S., knowing Cambodia’s history and our role in that history, insists on Cambodia paying what it owes, then certainly at a minimum we can forgive the interest and recycle the debt.

As I have said many times before, I do not believe the U.S. gives the Asia-Pacific region the attention it deserves, and the need for debt recycling in Cambodia is a case in point. By our failure to assist Cambodia, we are unintentionally inviting Cambodia to partner with others who may not share our ideologies, and this does not bode well for U.S. security interests in the region.

We must do a better job, and I would invite our U.S. Treasury to do its part when it comes to Cambodia. I am very disappointed that the U.S. Treasury was unable to provide a witness for today’s hearing given the importance of this subject and that people are suffering in Cambodia as we speak. Regardless of whether or not our Treasury has a small staff, I think it sends the wrong message that a principal player in this discussion was unable to provide a witness or submit a statement for the record.

I appreciate that Deputy Assistant Secretary Scott Marciel from the U.S. State Department is with us, and I also appreciate the work U.S. Ambassador Mussomeli is doing in Cambodia to promote debt recycling. I also thank the USDA for being with us.

I look forward to the testimony of our witnesses and I am hopeful that as a result of this hearing we will be able to put forward a bi-partisan piece of legislation that would make it possible for the U.S. to forgive or recycle Cambodia’s debt given that there is historical precedent for either option.

I now recognize our Ranking Member, my good friend from Illinois, for his opening remarks.

Mr. FALEOMAVEGA. I guess our friend is on his way, right?



I do want to welcome our witnesses this afternoon. Again, welcome, Mr. Scot Marciel, who is the Deputy Assistant Secretary for the Bureau of East Asia and Pacific Affairs.

Mr. Marciel was a career member of the Foreign Service, joined the State Department since 1985 formerly as Director of the Department of Office of Maritime Southeast Asia. Also served a tour in Vietnam, the Philippines, Hong Kong, Brazil, Turkey. Where else have you not been? We are very happy to have you.

A graduate of the University of California at Davis, which was the wrong school—you should have gone to UC-Berkeley—and also the Fletcher School of Law and Diplomacy. I do want to personally welcome you, Mr. Secretary, and I really, really appreciate your being able to come here.

Also, Mr. Miller, our Associate Administrator from the Department of Agriculture Foreign Agriculture Service, also has been in service. This gentleman has quite an experience in terms of being involved not only in the private sector.

He coordinated market development and regulatory affairs programs not only for North America and in his capacity also as a staff liaison to the National Association of Export Grain—that is how much I know about wheat and grain, Mr. Miller. You will have to advise me on that how we can do better.

Mr. Miller served as Administrator of USDA's Federal Grain Inspection Service for 3 years during the time period of President Reagan. He also operated his own agricultural consulting business. We are very, very happy to have this gentleman, who is a graduate of Ohio State University and received his Master's from the George Mason University.

Again, I want to welcome both gentlemen, and if I may at this time would like to open the floor to Mr. Marciel for his testimony.

**STATEMENT OF MR. SCOT MARCIEL, DEPUTY ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE**

Mr. MARCIEL. Mr. Chairman, Ranking Member Manzullo and members of the subcommittee, thank you for inviting me to testify about United States-Cambodian relations and in particular Cambodia's outstanding bilateral debt to the United States.

Before I begin, though, I would like to convey on behalf of my colleagues our condolences on the passing of Chairman Tom Lantos, who we all know was a tireless champion of democracy and human rights.

I have a rather lengthy statement I would ask to be submitted for the record.

Mr. FALEOMAVAEGA. Without objection. Your statement will be made part of the record.

Mr. MARCIEL. The relationship between the United States and Cambodia has been steadily improving, based in part on the progress that Cambodia itself has made.

While we would have liked to see more progress on reform, as Secretary Rice noted yesterday, we have seen positive developments in several areas: The strengthening of civil society and democratic processes, improvements in the fight against human

trafficking, progress on efforts to bring several Khmer Rouge leaders to justice and increasing religious tolerance.

Although problems in human rights and the electoral process persist, we have seen an increase in space for political activity which has allowed for an active political opposition and an increasingly dynamic civil society. Cambodia's April 2007 commune-level elections were peaceful and generally positive. As I think you know, Mr. Chairman, national elections are scheduled for this July.

On the economic side, Cambodia has taken a number of important policy measures to improve its business climate and promote economic development, which has led to impressive growth rates in the 8 to 10 percent rate in the last couple of years.

Despite the progress, weak rule of law, rampant corruption and fragile institutions remain major challenges to Cambodia's democratic development and economic growth. Economic opportunity and competitiveness continue to be retarded by corruption and lack of legal protection for investors.

While the opposition plays a role in the country's political affairs, the ruling party dominates all branches of the government. Cambodia's health and education systems were largely decimated during the reign of the Khmer Rouge, and this legacy continues to hamper the country's social and economic development. Also as you said, Mr. Chairman, Cambodia remains a poor country with per capita income only \$590 per year.

We have an interest in a strong, independent and increasingly free and prosperous Cambodia that can be a good partner. We are working with the Cambodians on an expanding range of issues to move our relationship forward. With United States encouragement and support, Cambodia has taken increasingly responsible positions on the world stage, including sending deminers to participate in a U.N. peacekeeping mission to the Sudan and instituting a parliamentary caucus on Burma.

In 2007, Cambodia hosted two United States Navy ships, the first to visit in over 30 years, and inaugurated a Peace Corps program. Cambodia is a valued counterterrorism partner.

The United States provides substantial assistance to Cambodia. It is the third largest recipient of U.S. foreign assistance in the East Asia and Pacific region. In 2007, Cambodia received approximately \$62 million in United States assistance that went to an array of programs, including HIV/AIDS and maternal health, demining, professionalizing the military, strengthening good governance and human rights and promoting economic development.

Let me now turn to Cambodia's debt. Cambodia's public debt is almost entirely external. That is, it is owed to foreign governments and multilateral institutions. At the end of 2006, Cambodia's external debt totaled \$2.25 billion. About a third of that is owed to the United States and Russia.

According to the World Bank and IMF, Cambodia's debt is on a sustainable path and the risk of debt distress as they call it is judged "moderate." Cambodia does not qualify for debt relief under the Heavily Indebted Poor Countries Initiative. That is a World Bank decision, not a U.S. decision, but did benefit from \$82 million in debt relief through the Multilateral Debt Relief Initiative.

Cambodia's debt to the United States totals \$339 million and stems from shipments in the early 1970s of U.S. agricultural commodities financed with low interest rate loans from USDA. To effect those shipments, the Cambodian Government at the time signed three Public Law 480 agreements with USDA.

In 1975, the Lon Nol government lost its hold on the country and fell to the Khmer Rouge, which ceased servicing this debt to the United States. Because the debt has not been serviced since 1975, arrears and late interest have accumulated over three decades, significantly raising the amount owed. My colleague from the USDA is prepared to go into more detail on the shipments and the agreements.

The United States has strongly supported restructuring Cambodia's debt through the Paris Club group of creditor countries. In 1995, the Paris Club provided Cambodia the most generous debt relief then available. Under those terms, low interest rate concessional debts such as those Cambodia owed to the United States are rescheduled over a 40-year period.

At the time, the United States was by far Cambodia's largest Paris Club creditor. Cambodia eventually signed debt agreements with France, Germany, Italy and Japan to implement this Paris Club debt treatment and began to pay those countries normally.

However, Cambodia never concluded the bilateral debt agreement with the United States and so never began paying its debt to us in part because the Cambodian Government refused to accept responsibility for debts incurred by the Lon Nol regime and in part because of a disagreement at the time over the amount of debt owed.

After several years of deadlock, negotiations resumed over the 2001 to 2005 period. After carefully reviewing the issue and all of our legal authorities, we showed significant flexibility and presented to the Cambodians in late 2005 a proposal that was the final, best offer we could make.

In a February 2006 letter, the Cambodian Government acknowledged the amount of principal it owed to the United States. Based on this figure, the United States drafted a bilateral agreement that retroactively implemented the 1995 Paris Club agreement and presented it to the Cambodian Government.

Despite the fact that a number of senior United States officials have urged Cambodia to live up to that Paris Club agreement and signed the pending bilateral implementing agreement without further delay, the Cambodian Government has been unwilling to do so.

If the agreement is implemented in 2008, Cambodia's outstanding debt to the United States would be approximately \$339 million. About \$154 million of that amount are arrears that have accumulated because regular debt service payments were to have resumed in 1997 and would be due immediately. The accumulation of these arrears is a result of Cambodia's failure to implement the 1995 Paris Club agreement.

We have repeatedly told the Cambodians that should they accept the bilateral agreement we would stand ready to support a new debt rescheduling in the Paris Club so Cambodia would not face that large, up front arrears payment right away.

Cambodia is now seeking additional concessions such as lower interest rate or possible legislation for a debt swap program similar to debt for assistance measures Congress enacted for Vietnam in the year 2000. The administration's position is that Cambodia's economic and financial situation does not merit debt reduction because the country is neither heavily indebted nor experiencing a balance of payments crisis.

Every year State and Treasury review and decline numerous requests for debt relief, whether outright cancellation or debt for assistance swaps, from many debtor countries, many of which are current on their debt payments. The administration's concern that creating a special debt reduction program for a country that is unwilling, rather than unable, to pay its debts to the United States sets a poor precedent for other countries in similar circumstances and sends the wrong message about prudent debt management.

In sum, Cambodia's timely resolution of the debt issue with the United States would eliminate this longstanding matter in what are other improving bilateral relations and enhance Cambodia's creditworthiness, as well as the country's ability to access international capital markets. Other countries following this path have benefitted enormously.

Mr. Chairman, I appreciate the opportunity to appear before you and look forward to your questions. Thank you.

[The prepared statement of Mr. Marciel follows:]

PREPARED STATEMENT OF MR. SCOT MARCIEL, DEPUTY ASSISTANT SECRETARY,  
BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. Chairman, Ranking Member Manzullo, and Members of the Subcommittee, thank you for inviting me here today to testify about the growing U.S.-Cambodia bilateral relationship and, in particular, Cambodia's outstanding bilateral debt to the United States.

The bilateral relationship between the United States and Cambodia has been steadily improving, especially over the course of the past two years. Although Cambodia continues to undergo a difficult transition to democratic governance, we have seen positive developments in several key areas, including the strengthening of civil society and democratic processes, rapid economic growth, improvements in the fight against trafficking, support for democratic reforms in Burma, and increasing religious tolerance. While longstanding problems in the electoral process persist, which we are working to address through our democracy assistance programs, Cambodia's April 2007 commune-level elections were peaceful and generally positive. National elections are scheduled for July 2008.

U.S.-Cambodia cooperation in a number of areas is growing and moving our bilateral relationship forward. In 2007, Cambodia hosted two U.S. Navy ships—the first to visit in over 30 years—and inaugurated a Peace Corps program. With U.S. encouragement and support, Cambodia has taken increasingly responsible positions on the world stage, including sending de-miners to participate in a UN peacekeeping mission to the Sudan and instituting a parliamentary caucus on Burma. We share good cooperation with the Cambodian military on counterterrorism and POW/MIA accounting.

Despite this progress, weak rule of law, rampant corruption, and weak institutions remain major challenges to Cambodia's democratic development and sustained economic growth. While the political opposition plays a role in the country's political affairs, the ruling party dominates all branches of the government. Cambodia's leaders continue to occasionally use its weak and easily-influenced judiciary to pursue legal cases against critics and the political opposition. Land disputes and forced evictions, often accompanied by violence, continue to be a high-profile problem. Cambodia's health and education system were largely decimated during the reign of the Khmer Rouge (1975–1979), and this legacy continues to hamper the country's social and economic development.

In Cambodia's efforts to deal with the legacy of the Khmer Rouge, the U.S. strongly supports bringing to justice senior leaders responsible for the atrocities committed

under that regime. We applaud the progress made by the Extraordinary Chambers in the Courts of Cambodia (ECCC), a Cambodian government and UN hybrid tribunal created in 2004 to try those individuals most responsible for the crimes committed under the Khmer Rouge regime in which nearly two million Cambodians were killed. The investigative phase of the tribunal is now underway and five former Khmer Rouge senior officials have been charged with war crimes and/or crimes against humanity. The U.S. has not in the past provided direct funding to the ECCC, due to congressional and Administration concerns about the tribunal's quality, and in particular that the tribunal is not capable of meeting "international standards of justice." However, in light of the Court's progress during the past year, the Department is currently reviewing the tribunal and its operations, including whether or not it is capable of meeting international standards of justice, in order to make a decision regarding future funding.

#### ECONOMY AND TRADE

Cambodia has taken a number of important policy measures recently to improve its business climate and promote economic growth. Cambodia joined the World Trade Organization in 2004 committing to implement global trading rules and opening its economy to foreign investment and trade. Implementation of these WTO commitments and other economic reforms have resulted in annual GDP growth rates in the 8-10 percent range over the past two years. Despite these impressive results, Cambodia remains a poor country: per capita income is only \$590 per year; education levels are lower than in most neighboring countries; and infrastructure remains inadequate. Economic opportunity and competitiveness continue to be retarded by corruption and lack of legal protections for investors, and there are significant questions regarding the sustainability of recent high economic growth rates.

Cambodia's largest trading partner is the United States. Garments dominate Cambodia's exports, especially to the U.S., and accounted for over \$2.6 billion in 2007. The garment industry employs roughly 350,000 workers, mostly women. Cambodia has developed a good labor record in the garment sector, built through close cooperation with the International Labor Organization and the U.S. Government, which has attracted socially conscious buyers in the United States. Since the end of the WTO's Multi-Fiber Agreement in 2004, Cambodia has defied expectations that its garment industry would shrink significantly. In fact, exports have grown by nearly 20 percent, due in part to safeguards placed on imports of apparel from China. The U.S. safeguards on Chinese textiles will expire at the end of 2008, and under WTO rules cannot be renewed. The U.S. will continue to help accelerate economic opportunity and competitiveness in Cambodia by encouraging policy reform, implementing measures to reduce and eliminate corruption, and strengthening the legal framework for investors.

In July 2006, the U.S. and Cambodia signed a bilateral Trade and Investment Framework Agreement (TIFA), and the first round of discussions took place in Cambodia in February 2007. The on-going bilateral TIFA dialogue is focused on creating a cooperative mechanism to deepen and expand bilateral trade and investment ties, and supporting Cambodia's efforts to implement its WTO commitments and other domestic economic reforms. Our engagement with Cambodia under this dialogue has been highly successful. In November 2007, Ambassador Susan Schwab led the bilateral dialogue, becoming the first U.S. Trade Representative to visit Cambodia.

#### U.S. ASSISTANCE TO CAMBODIA

Cambodia is the third-largest recipient of U.S. foreign assistance in the East Asia and Pacific region. In 2007, Cambodia received \$62 million to cover a broad array of important issues, including HIV/AIDS and maternal health, demining and professionalizing the military, strengthening good governance and human rights, and promoting economic development (see Appendix 1). U.S. assistance also supports programs to reverse the current culture of impunity, while strengthening civil society's ability to address legal and judicial reform, land tenure, rights of workers and children, and prevention of trafficking in persons. The U.S. also encourages expanded political participation by youth and women in elections and political processes. The USG provides assistance to improve the quality of and access to education, teacher training, assisting school directors to measure performance, and strengthening the leadership of the education system. We hope to increase the number of Cambodians studying in the United States under Fulbright and Humphrey Fellowship programs beyond the current twenty. U.S. assistance also helps preserve Cambodia's rich natural resources, by building increased transparency in natural resources management.

From 1997 to 2007, legislative restrictions limited direct funding to the central government of Cambodia. Current assistance programs started since the restrictions were removed are carefully targeted to ensure funds are being used effectively to promote reform.

#### U.S. POLICY ON RESTRUCTURING OFFICIAL FOREIGN DEBTS

Debt relief can be an important means of achieving U.S. goals of promoting economic growth, well-functioning financial markets, and economic reform abroad. Longstanding U.S. policy is to coordinate sovereign debt restructuring internationally, primarily through the Paris Club group of official creditors. This multilateral approach is a good value for the U.S. taxpayer because it increases recoveries from countries that are not paying their debts to the U.S., while maximizing benefits of debt relief for heavily-indebted, low-income countries that are unable to meet their payment obligations.

The United States provides debt cancellation only under limited circumstances, for example, as a Paris Club creditor in the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative. This approach provides budgetary resources to pay for the cost of debt relief for debtor countries that are in debt distress. These debtor countries commit to implement economic reforms aimed to reduce poverty and help avoid a new build-up of unsustainable debt before having debt relief. In evaluating requests for debt cancellation, the U.S. and other major official creditor countries rely heavily on International Monetary Fund (IMF) and World Bank assessments of a debtor country's financial need for debt relief and willingness to undertake reforms. Congress has reinforced this need-based approach to debt relief by enacting statutes such as the Special Debt for the Poorest authorization (enacted this year as Section 662 of the Department of State, Foreign Operations and Related Program Appropriations Act, Division J of P.L. No. 110–161) and the Enhanced Heavily Indebted Poor Countries Initiative (Title V of Appendix E of H.R. 3425, as enacted into law by Section 1000(a)(5) of P.L. No. 106–113). These statutes authorize the Executive Branch, under specific circumstances, to reduce or otherwise restructure sovereign debts, which are considered U.S. Government assets.

#### CAMBODIA'S EXTERNAL DEBT

Cambodia's public debt is almost entirely external, of which roughly one-third is owed to the United States and Russia. At the end of 2006, Cambodia's debt was 31 percent of its GDP. According to the World Bank and the IMF, Cambodia's debt is on a sustainable path and the risk of debt distress is judged "moderate," an improvement from the 2006 assessment that Cambodia's risk was "high," thanks to higher-than-expected GDP growth and additional large-scale concessional financing from creditors such as China and South Korea. IMF and World Bank data indicate that, in 2007, Cambodia's debt-to-exports ratio was 32 percent and its debt-to-government revenues ratio was 188 percent (net present value terms). In comparison, the threshold levels of indebtedness needed to qualify for debt relief under the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative are 150 percent (debt-to-exports) and 250 percent (debt-to-revenues). Simply put, Cambodia does not qualify for debt relief under Enhanced HIPC applying the usual criteria, which were designed to identify the most heavily debt burdened poor countries. Based on the Multilateral Debt Relief Initiative's different eligibility criteria, Cambodia benefited from \$82 million in IMF debt relief in January 2006.

#### CAMBODIA'S DEBT TO THE UNITED STATES

Cambodia's bilateral debt to the U.S. Government stems from shipments of U.S. agricultural commodities, such as cotton, rice, and wheat flour, financed with low interest-rate loans by the U.S. Department of Agriculture (USDA) under Title I of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480). The U.S. and Cambodia signed three "P.L. 480 agreements" in 1972, 1973, and 1974, during the Vietnam War and Cambodia's turbulent Lon Nol era. The United States accepted significant payments in local currency under a "Currency Use Payment" provision commonly included in such agreements; the remainder of the debt was to be paid in dollars. The Lon Nol regime never consolidated its hold on the country and ultimately Cambodia fell to the Khmer Rouge in 1975, which ceased servicing this debt. Arrears and late interest accumulated over the next three decades.

In 1995, the Paris Club group of creditor nations and Cambodia reached an agreement to restructure Cambodia's debt on "Naples" terms—then the most generous treatment in the Paris Club's "toolkit." At the time, the U.S. was by far Cambodia's largest Paris Club creditor. Cambodia benefited from a 67 percent reduction of certain non-concessional debts, and a long-term rescheduling of certain concessional

debts. Since all of Cambodia's debt to the U.S. was contracted on concessional terms, at below-market interest rates, the Paris Club agreement called on the U.S. to consolidate arrears and future payments scheduled between January 1, 1995 and June 30, 1997 into a new loan payable over 40 years following a 16-year grace period. Debt service falling due on or after July 1, 1997 was to be paid according to the original schedule. Cambodia eventually signed debt agreements with France, Germany, Italy, and Japan to implement the 1995 Paris Club debt treatment, and began paying those countries normally. The United States and Cambodia never concluded a bilateral implementing agreement, in part because the Cambodian government refused to accept responsibility for debts incurred by the Lon Nol regime and, in part, because of a disagreement at the time over the amount of debt owed.

After several years of deadlock, negotiations resumed over the 2001–2005 period, with the active involvement of the State Department, the U.S. Treasury Department, USDA, and U.S. Embassy Phnom Penh. After carefully examining the available legal authorities, the U.S. negotiating team's offer to the Cambodian government showed significant flexibility on the amount of debt owed. In December 2005, the Treasury Department affirmed that, for legal and policy reasons, this was the final, best offer the U.S. could make.

In February 2006, the Cambodian Finance Minister indicated that Cambodia agreed with the U.S., in principle, with the amount of principal it owed. Based on this understanding, the United States drafted a bilateral agreement that retroactively implemented the 1995 Paris Club agreement, including USDA's concessions, and presented it to the Cambodian government in the summer of 2006. If the agreement is implemented in 2008, Cambodia's total debt to the U.S. totals approximately \$339 million using data calculated as of December 31, 2007. About \$154 million of that amount, arrears that have accumulated because regular debt service payments were to have resumed in 1997, would be due immediately. The United States has repeatedly communicated to Cambodia that, should Cambodia agree to the proposed bilateral agreement, the U.S. stands ready to support a new debt treatment in the Paris Club to reschedule these arrears.

To date, the Cambodian government has been unwilling to sign the draft bilateral agreement and now seeks additional concessions, such as a lower interest rate. Longstanding U.S. debt policy, in keeping with Paris Club principles and U.S. budget rules, is to retain the same interest rate of the original loans in any rescheduling of those loans. The proposed U.S.-Cambodia bilateral debt agreement would reschedule the consolidated P.L. 480 debt at the original interest rate of 3 percent—a highly-concessional interest rate given the interest rate environment of the early 1970s. Offering a lower interest rate would be an unauthorized form of debt reduction. Cambodian officials have also indicated that domestic political obstacles still make the government reluctant to accept responsibility for debts incurred by the Lon Nol regime. Although Cambodian observers may consider this debt illegitimate, the U.S. has on its side the international law principle that governments are generally responsible for the obligations of their predecessors. The government of Iraq accepted the debts incurred by Saddam Hussein. The civilian government of Nigeria accepted responsibility for debts accumulated by military governments that ruled the country in the 1980s and 1990s. Similarly, Afghanistan accepted the heavy debt burden left by decades of foreign occupation and civil war. There are many other examples.

Senior U.S. government officials have repeatedly encouraged Cambodia to live up to the 1995 Paris Club agreement it signed with the United States and other creditors, and urged it to sign the pending U.S.-Cambodia bilateral agreement without further delay. However, Cambodia may be reluctant to accept the current proposal to settle the bilateral debt issue if it believes there are good prospects of converting a significant amount of the debt service it would otherwise pay to the United States into a form of increased U.S. assistance.

We understand Cambodia has expressed an interest in a debt-swap program similar to debt-for-assistance measures that were enacted for Vietnam in 2000. Observers often compare Vietnam and Cambodia for geographic and historical reasons, but several distinctions about the treatment of the debts these countries contracted with the United States are worth highlighting. In 1993, Paris Club creditors provided Vietnam a debt rescheduling on terms similar to Cambodia's 1995 Paris Club debt agreement. Vietnam signed a bilateral implementing agreement with the U.S. in 1997, resumed making scheduled payments, and was in good financial standing when Congress created the Vietnam Education Foundation, which will refund to the Foundation's programs about 40 percent of Vietnam's total debt payments to USAID and USDA. The same cannot be said of our current situation with regard to Cambodia debt.

The Administration's position is that Cambodia's economic and financial situation does not merit debt reduction, because the country is neither heavily indebted nor experiencing an external balance of payments crisis. The Administration is concerned that creating a special debt reduction program for a country that is unwilling, rather than unable, to pay its debts, sets a poor precedent for other countries in similar circumstances and sends the wrong message about prudent debt management. Cambodia has accumulated arrears to the U.S., while paying other creditors on time, and in at least one case, early. Every year, both within and outside of the Paris Club context, the U.S. Government reviews and declines similar requests for debt-for-assistance swap arrangements from debtor countries that are both current on their debt service and may owe billions of dollars of debt.

Congress has also expressed its view on the importance of maintaining orderly creditor-debtor relations in a number of statutes, including Section 620(q) of the Foreign Assistance Act of 1961 and the Brooke Amendment (enacted this year as Section 612 of the Department of State, Foreign Operations and related Programs Appropriations Act, Division J of P.L. No. 110-161). These statutes provide for an automatic cutoff of U.S. economic assistance to a country that is in default on certain loans for certain periods of time. Although Cambodia's USDA debts are not subject to these default sanctions, these statutes reflect Congress's expectation that countries repay their debts to the United States in a timely manner.

Another concern about funding foreign assistance programs through the principal and interest payments of debtor countries is that it circumvents normal budget rules. Congress passed the Federal Credit Reform Act of 1990 requiring U.S. creditor agencies to make realistic estimates about recoveries when calculating the true cost of lending programs. This approach saves U.S. taxpayers money by creating transparent incentives for agencies to manage credit programs efficiently and effectively. Accordingly, the Administration requests and Congress annually appropriates, funds to be used to pay the U.S. budget cost of cancelling a country's debt obligation or providing a debt swap. The Cambodian proposal circumvents this congressional budget oversight mechanism.

In sum, Cambodia's prompt agreement to resolve U.S. debt claims would eliminate this long-standing dispute in a scenario of otherwise improving bilateral relations; it would also enhance Cambodia's creditworthiness and Cambodia's ability to access international capital markets. Other countries following this path have benefited enormously.

Mr. Chairman, I appreciate this opportunity to appear before you and welcome any questions you may have. Thank you.

#### Appendix 1

(\$ in thousands)	FY 2007 Actual
TOTAL	62,020
Child Survival and Health	32,989
Development Assistance	7,710
Economic Support Fund	14,850
Foreign Military Financing	990
Global HIV/AIDS Initiative	1,600
International Military Education and Training	101
Nonproliferation, Antiterrorism, Demining and Related Programs	3,780

Mr. FALEOMAVAEGA. My distinguished ranking member is going to have one more vote. See, I have the distinguished honor of not having to vote because I don't need to vote. My good friend from Illinois has to go vote.



I was going to give him the chance to provide an opening statement at the hearing, but he will have every opportunity to do that when he returns.

I do want to thank you, Mr. Secretary, for your statement. I will withhold questions until after hearing the testimony from Mr. Miller.

Mr. Miller?

**STATEMENT OF MR. W. KIRK MILLER, ASSOCIATE ADMINISTRATOR/GENERAL SALES MANAGER, FOREIGN AGRICULTURE SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Mr. MILLER. Thank you, Mr. Chairman. Good afternoon to you and the members of the subcommittee. I want to thank you for the opportunity to discuss Cambodia's Public Law 480 Title I debt obligation to the United States and the U.S. Department of Agriculture's policies and programs to strengthen United States and Cambodian relations.

Before I start with my comments, I also want to extend USDA's condolences on behalf of your loss of Chairman Lantos. He was a fine American, and we are all better off for having known him and had a chance to benefit from his wisdom through the years.

I am going to summarize my comments, and I also would like to have my full testimony entered in the record.

Mr. FALEOMAVEGA. Without objection.

Mr. MILLER. Thank you.

Between 1972 and 1974, the United States provided three separate Public Law 480 Title I financing agreements of \$17 million, \$168 million and \$89 million, which facilitated the export of United States agricultural commodities to Cambodia on concessional credit terms allowing for up to 40 years for repayment.

The Public Law 480 Title I program has been used in countries with the greatest need for food that are making efforts to improve food security and agricultural development, alleviate poverty and promote broad-based, equitable and sustainable development.

Over time, Cambodia realized it was unable to repay debts to the United States and eventually in the mid 1990s requested assistance from the Paris Club, a group of 19 creditor nations that work together to provide solutions for debtor countries with repayment problems.

During the 2001 to 2005 period, representatives from USDA, the State Department and the Treasury Department met with Cambodian Embassy officials in an effort to reach an agreement on rescheduling and repayment.

In December 2005, a letter was sent from the U.S. Treasury Department to Cambodia's Ministry of Economy and Finance and proposed that a bilateral agreement be signed based on a calculation that Cambodia's total debt to the United States was \$317 million, including principal and interest. In today's dollars, this debt totals approximately \$339 million, of which \$154 million consists of arrears and is due immediately as Mr. Marciel indicated.

In February 2006, Cambodian officials confirmed in writing that Cambodia owed the United States \$162 million in principal, but they questioned the exact value of the interest. In the letter, Cambodia committed to moving forward toward completing the bilateral

agreement on resolving the debt to the United States. Cambodia to this day has not signed the bilateral agreement and has not made any payments on the debt since 1975.

Given Cambodia's growing importance in Southeast Asia, USDA has provided a variety of food assistance, technical assistance, trade capacity building and training programs over the past 7 years to help Cambodia develop economically and participate in world markets.

Since 2001, USDA has provided agricultural commodities valued at more than \$48 million to private voluntary organizations and the World Food Program for school feeding, health and education and rural development projects.

For example, USDA provides assistance under the McGovern-Dole International Food for Education and Child Nutrition Program. This program supports school feeding, maternal and child nutrition activities, and is estimated to reach 107,000 beneficiaries in Cambodia each school day.

For Fiscal Year 2008, USDA has designated Cambodia as a priority country for the McGovern-Dole program, and we have received three proposals for Fiscal Year 2008 requesting 6,670 metric tons of commodities with a total program value of \$14.2 million. These proposals are under consideration, and awards may be announced later this month.

USDA has also provided assistance under the Food for Progress Program in Cambodia between Fiscal Years 2002 and 2005 that supported agricultural development efforts, including micro-credit financing, private sector initiatives, rural entrepreneurship, infrastructure projects and farmer training.

In addition to providing food assistance, USDA has supported Cambodia's efforts to control and combat highly pathogenic avian influenza, which is endemic in Cambodia. USDA provided training to more than 65 Cambodian agricultural officials in a series of workshops on surveillance, laboratory diagnostics, information management and the risk posed by highly pathogenic avian influenza to wild birds, poultry and humans.

Additionally, USDA's Cochran Fellowship Program has provided the opportunity for Cambodian agricultural officials to visit the U.S. Department of Agriculture facilities and observe our highly pathogenic avian influenza prevention programs.

I want to thank you very much for allowing me the opportunity to provide an overview of Cambodia's debt to the United States and USDA's policies and programs to strengthen United States and Cambodian trade relations.

I will be happy to answer any questions you may have. Thank you.

[The prepared statement of Mr. Miller follows:]

PREPARED STATEMENT OF MR. W. KIRK MILLER, ASSOCIATE ADMINISTRATOR/GENERAL SALES MANAGER, FOREIGN AGRICULTURE SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman, Members of the subcommittee, I am here today to discuss Cambodia's P.L. 480, Title I debt obligation to the United States and the U.S. Department of Agriculture's (USDA) policies and programs to strengthen U.S. and Cambodian trade relations.

## HISTORY AND WHERE WE ARE TODAY

Between January 1972 and August 1974, the United States provided more than \$200 million of assistance to Cambodia's government through P.L. 480, Title I financing agreements. Under three separate agreements of \$17 million, \$168 million, and \$89 million, the United States provided U.S. agricultural commodities to Cambodia on credit terms allowing for up to 40 years for repayment and a principal grace period of up to 16 years.

The P.L. 480, Title I program provides for the sale of U.S. agricultural commodities on concessional credit terms to developing countries and private entities. Priority is given to countries with the greatest need for food that are making efforts to improve food security and agricultural development; alleviate poverty; and promote broad-based, equitable, and sustainable development.

Over time, Cambodia realized it was unable to repay the United States and other nations for the debts it had accumulated. Cambodia requested assistance from the Paris Club, a group of 19 creditor nations that work together to provide coordinated solutions for debtor countries with repayment problems. In January 1995, Cambodia negotiated a multilateral debt agreement with the Paris Club.

All debt owed by Cambodia to the United States consists of P.L. 480, Title I debt. Negotiations between the United States and Cambodia over implementing the 1995 Paris Club agreement stalled for several years over the amount owed to the United States. During the 2001–2005 period, representatives from USDA, the U.S. Department of State, and the U.S. Department of the Treasury met with Cambodian Embassy officials in an effort to reach an agreement.

In a December 30, 2005 letter from the U.S. Treasury Department to Cambodia's Ministry of Economy and Finance, it was proposed that a bilateral agreement be signed based on a calculation that Cambodia's total debt to the United States was \$317 million (principal and interest). In today's dollars, this debt now totals \$339 million (principal and interest), of which \$154 million consists of arrears and is due immediately.

In February 2006, Cambodian officials confirmed in writing that Cambodia owed the United States \$162 million in principal, but they questioned the exact value of the interest. In the letter, Cambodia committed to moving forward toward completing the bilateral agreement on resolving the debt to the United States. Cambodia has not signed the bilateral agreement and has not made any payments on the debt since 1975.

## USDA PROGRAMS AND ACTIVITIES WITH CAMBODIA

Given Cambodia's growing importance in Southeast Asia, USDA has provided a variety of food assistance, technical assistance, trade capacity building, and training programs to Cambodia over the past seven years to help it develop economically and participate in world trade markets.

Since fiscal year 2001, USDA has provided more than 66,000 metric tons of agricultural commodities, valued at more than \$48 million, to private voluntary organizations and the World Food Program (WFP) for school feeding, health and education, rural development, and agricultural training activities in Cambodia.

For example, USDA provided assistance under the McGovern-Dole International Food for Education and Child Nutrition Program in Cambodia through the WFP and a private voluntary organization in fiscal years 2003, 2006, and 2007. For fiscal year 2008, USDA has designated Cambodia as a priority country for the McGovern-Dole program due to malnutrition, low income, and low literacy. USDA has received three proposals under the McGovern-Dole program for fiscal year 2008, requesting 6,670 metric tons of commodities with a total program value of \$14.2 million. These proposals are under consideration, and awards may be announced later this month. The McGovern-Dole program, which supports school feeding and maternal and child nutrition activities, is estimated to reach 107,000 beneficiaries in Cambodia each school day.

USDA also provided assistance under the Food for Progress program in Cambodia between fiscal years 2002 and 2005 through several agreements that supported numerous agricultural development efforts, including micro-credit financing, private sector initiatives, rural entrepreneurship, infrastructure projects, and farmer training.

In addition to providing food assistance, USDA has supported Cambodia's efforts to control and combat highly pathogenic avian influenza (HPAI), which is endemic in Cambodia. USDA has conducted a wide variety of technical assistance and capacity building activities related to HPAI. Specifically, USDA provided training to more than 65 Cambodians, primarily field-level Ministry of Agriculture, Forestry, and Fisheries (MAFF) personnel, in a series of workshops on surveillance, laboratory

diagnostics, information management, and the risk HPAI poses to wild birds, poultry, and humans.

In 2006, USDA's Cochran Fellowship Program provided the opportunity for two MAFF officials to visit USDA facilities and observe U.S. HPAI programs as part of a U.S. study tour. The Cochran Fellowship Program provides middle-income countries and emerging democracies with short-term, market-oriented agricultural training in the United States. The training targets senior and mid-level specialists and administrators from the public and private sectors who are concerned with agricultural trade, agribusiness development, management, policy, and marketing.

In addition, USDA has supported numerous activities for MAFF personnel in laboratory diagnostics, including training at USDA's National Veterinary Services Laboratory in Ames, Iowa, regional events in Taiwan and Vietnam, and a two-week course at MAFF's laboratories in August 2007. This training was aimed at providing an overview of the science of the virus, available HPAI tests, information management, and biosafety measures. USDA has also supported Cambodian participation in veterinary epidemiology training outside of the country and employs an agricultural scientist in Cambodia to monitor the situation and coordinate HPAI activities.

Thank you for allowing me to provide an overview of Cambodia's debt to the United States and USDA's policies and programs to strengthen U.S. and Cambodian trade relations. I will be happy to answer any questions you may have. Thank you.

Mr. FALEOMAVAEGA. Thank you, Mr. Miller.

Mr. Secretary, I just wanted to follow up on a couple of questions based on your testimony and some of the statements that you have made and wanted to ask you the procedure that we now go about if a country owes our country debt obligations. Obviously we do have a set procedure.

You indicated earlier in your statement that Cambodia does not qualify for this particular portion of a procedure, if there is one, to say, "Look, just forgive the guys. Let us just start all over again." Can you elaborate on this in terms of saying that Cambodia does not qualify for this debt reduction that they have requested, if that is a better way?

Mr. MARCIEL. Sure, Mr. Chairman. The particular mechanism I mentioned earlier, the Heavily Indebted Poor Countries Initiative, is actually a multilateral initiative, not a U.S. one, but one that we participate in and is a program that, I believe, the World Bank sets the criteria having to do with income levels, as well as debt levels, including debt for GDP and debt for export levels. Under that fairly quantitative and objective criteria, Cambodia did not qualify.

Generally we provide debt relief, not necessarily forgiveness, in the context of the Paris Club group of creditors. Normally for countries that can't make their debt payments, creditors would meet with the debtor country and agree to reschedule the debt, so not forgiving it, but saying, Okay, you can pay this amount over a longer period of time so that the payments are manageable. That has generally been our practice.

We do participate, as I mentioned, in the enhanced Heavily Indebted Poor Countries Initiative, which involves canceling 100 percent of eligible debts owed to countries that qualify and that have successfully implemented poverty reduction strategies under an IMF supported program, but, as I mentioned, Cambodia did not qualify for that program.

The only other debt program that I am aware of we have is a limited Debt for Nature Swap Program under the Tropical Forest Conservation Act, so those are really the only programs that we have on the debt side.

Mr. FALEOMAVAEGA. Let me ask you this. Why are we letting the World Bank make a determination as to whether or not Cambodia

qualifies or is disqualified from a debt reduction or whatever it is that they are seeking?

I mean, shouldn't the policy come out of our Government rather than relying on an agency or a regional institution like the World Bank?

Mr. MARCIEL. The reason, Mr. Chairman, is that this is an international effort to forgive the debt of the poorest, most heavily indebted countries. It wasn't just the U.S. involved. It was a whole——

Mr. FALEOMAVAEGA. How does Cambodia rank among the poorest of the countries in the world?

Mr. MARCIEL. I would have to get that to you.

Mr. FALEOMAVAEGA. Could you provide that for the record?

Mr. MARCIEL. Sure.

Mr. FALEOMAVAEGA. I am curious.

Mr. MARCIEL. I would be happy to.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. SCOT MARCIEL TO QUESTION ASKED  
DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVEGA

According to the IMF, Cambodia's GDP per capita in 2006 was estimated to be \$513. Using this measure, Cambodia ranks 154th in per capita GDP out of 182 countries analyzed. Please see table below.

Low-income Countries in the World	
	2006 GDP per capita (nominal \$)
Kenya	670
Solomon Islands	661
Uzbekistan	643
Comoros	642
Benin	624
Lesotho	621
Ghana	602
Laos	570
Kyrgyzstan	542
Haiti	528
<b>Cambodia</b>	<b>513</b>
Mali	487
Zimbabwe	472
Burkina Faso	449
Tajikistan	441
Bangladesh	415
Mozambique	386
Nepal	376
Central African Republic	356
Togo	351
Timor Leste	346
Tanzania	335
Guinea	329
Uganda	316
Afghanistan	309
Madagascar	287
Niger	278
Rwanda	271
Sierra Leone	254
Eritrea	244
Malawi	241
Burma	232
Gambia	223
Guinea-Bissau	189
Ethiopia	177
Liberia	172
Democratic Republic of Congo	144
Burundi	119

Source: International Monetary Fund

Mr. FALEOMAVEGA. I suspect that even the World Bank has a different set of standards how it makes its decision and determinations of whether or not Cambodia falls into a certain category and says, Well, they don't qualify. Would I be wrong in making that assessment?

Mr. MARCIEL. I think that is right, Mr. Chairman. As I understand it there are several criteria, including not only income levels, but also levels of indebtedness. We can get you the specific information on where they rank in the world.

Mr. FALEOMAVAEGA. Okay. Would you say as a matter of general policy Cambodia definitely is one of the poorest countries in the world?

Mr. MARCIEL. I don't honestly know if it is one of the poorest countries in the world. It is certainly poor.

Mr. FALEOMAVAEGA. Okay.

Mr. MARCIEL. Where it ranks, I would have to get that to you. I mean, unfortunately, as you know very well, there are lots of very poor countries. I don't know where Cambodia ranks.

Mr. FALEOMAVAEGA. With a debt owing, you mentioned in your statement, of \$2.5 billion owing to other countries besides the United States, and I believe you mentioned that one-third of that debt owing is from the United States. Is that correct?

Mr. MARCIEL. It is \$2.25 billion owed to all foreign creditors. About a third of that is United States and Russia combined. Three hundred and thirty nine million dollars owed to the U.S., so more or less one-seventh is owed to the U.S.

Mr. FALEOMAVAEGA. I am just wanting to express a sense of concern for, and correct me if I am not using the proper phrase or terminology, squeezing blood out of a turnip. Is that the proper way of saying it?

If a country is poor enough and hardly has the base to be able to pick its feet up and try to struggle and trying to see how we can help, and yet at the same time make demands that they have to pay the debt. I just don't know. How many other countries have we been able to forgive debt obligations? I am curious.

I mentioned Jordan because this was true a couple years ago. We forgave Jordan \$500 million in debt obligations owing to the United States. How did they qualify? I don't think Jordan is one of the poorest countries in the world.

Mr. MARCIEL. Mr. Chairman, I am afraid I am going to have to get back to you with an answer on Jordan. I don't remember specifically on what basis—

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. SCOT MARCIEL TO QUESTION ASKED  
DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

Jordan received almost \$700 million in debt forgiveness in 1994, 1995 and 1997, as a result of special legislation passed by Congress at the request of the Administration. This request was in response to the signing of the Washington Declaration by King Hussein and Prime Minister Rabin in July 1994, ending the state of war between Jordan and Israel, and in recognition of Jordan's bold contributions toward Middle East peace.

Mr. FALEOMAVAEGA. I don't mean to put you on the spot, Mr. Secretary.

Mr. MARCIEL. No. That is okay. It is a perfectly legitimate question.

As I said, our debt forgiveness has basically been limited, and maybe Jordan is an exception to that, to countries that have qualified under the international Heavily Indebted Poor Countries Initiative.

We have been very willing, including in the case of Cambodia, to deal with countries that are facing debt payment problems through the Paris Club and rescheduling their debt. In the case of the 1995 Paris Club, it was a very generous debt rescheduling program, but

the IMF's determination is that Cambodia is able to make its debt payments.

Now, that doesn't mean that we don't want to help Cambodia. I was in Cambodia also recently, Mr. Chairman. The needs are obvious. The needs are clear, which is why we have a significant assistance program. As you know, I am not allowed to come up and ask for more assistance money, but clearly there are plenty of needs there.

Mr. FALEOMAVEGA. I understand. I think if I could just express as I have said earlier in my statement, the human tragedy that you cannot in any way convert into dollar amounts, the fact that for this 5-year period, as Mr. Miller indicated—this is a Public Law 480 program that we tried to give assistance in the best of intentions. We wanted to help Cambodia before the Pol Pot regime came into power.

But then to subject succeeding governments for something that was a genocide, literally a genocide being committed against these people. You are putting the sins of the past on the people who had nothing to do with it, people who had to run away from the atrocities, just as I shared with you in my experience of meeting with this Minister of Commerce, Mr. Prasidh.

I cannot separate the human element in what I am trying to share with you here, Mr. Secretary and Mr. Miller. We can always print money. We are spending \$375 million a day on the war in Iraq. A day. Ten billion to twelve billion dollars a month. For this \$339 million, we are banging the hammer on Cambodia's back and their heads that they must pay.

I am just trying to figure this out. How do we transform this whole idea of this great nation of ours with so much wealth and so much capacity? No other country in the world gives more charity, more contributions to the world's needs of catastrophes than any other in the world.

I can see if Cambodia has the economic means. In my own personal visit and seeing the people, a lot of these suggestions in the consultations that I held with some of the officials of the government, they are very, very positive in their attitude, and they are looking toward America as the beacon of light to say, "Help us out of our situation," and yet we turn around and say, "No, you have to pay us" for something that they were not responsible for at all.

We cannot bring Pol Pot and the atrocities that he committed. It was during that time that these loans were given. This is where I am saying as a matter of policy we can be technical. We can be legal and say, "Well, you still owe us this money," but isn't there somewhere somehow when you put the human dimensions of the sufferings that these people have had to endure at the time that this happened to them?

We were there in Southeast Asia. Some of the policies that we conducted failed. For myself, I was in Vietnam in 1967 and 1968, and I can tell you as a grunt in the Army I didn't know whether or not I was coming back in a body bag or disappear and not even be able to come back from that terrible conflict.

We have also made some very serious mistakes in judgment, I suppose, in terms of what happened in that terrible part of our own



history and our participation of the problems that confronted Southeast Asia at the time.

So I am again making this plea if you can carry to your principal agencies, again expressing my deepest disappointment that the lead agency, the Department of Treasury, has not even seen fit to address this issue. I certainly believe that this matter ought to be seriously addressed.

I don't think these people are begging. They have too much pride to be asking or begging for something that they feel is such a black page in their own history that they were not responsible at all for. That is where I am trying to get your sense of understanding and perhaps to look at more and say, "Well, are we doing the right thing?" Is this really in line with our own fundamental principles of fairness and how we go about in giving assistance to poor countries like Cambodia?

Mr. Miller, I notice that you gave an excellent testimony too and it is ironic that here we are demanding that they pay back part of the Public Law 480 program, and at the same time we continue giving agricultural subsidies and this kind of assistance to a country like Cambodia. Can you help me figure this out in terms of on the one hand we are demanding that they pay back, and on the other hand we continue helping them?

Mr. MILLER. Well, first of all, Mr. Chairman, I wanted to tell you how much I respect your passion for this issue and the challenge in front of us. I think that it is admirable.

I think that the one thing that I would point out is that USDA does recognize the needs there. I think the programming that I talked about in my testimony strongly points out that we have been willing to put our products and commodities out there to help those people and to derive value for them.

Going back to the issue you were just discussing with my State Department colleague, I think that one point that we need to make here is it is very important to make sure that for all these countries, and I have the list in front of me of all of the outstanding Public Law 480 debts, we expect repayment. As of the end of December 2007, we are real close to a total of \$7 billion of outstanding debts.

In order to get these folks to repay, it is very important that they understand that we do expect repayment; that the implications here in waiving this for Cambodia spill over much broader, much further than just as it would apply just narrowly to Cambodia.

I think that from our standpoint if the Congress decides that in their wisdom they would like to do something additional above and beyond for Cambodia or any other country that is normally something we will respect, and we will certainly carry out any programs for that, but in the meantime we have an obligation on behalf of the taxpayers to try and get the money back that has been put out there.

Mr. FALEOMAVAEGA. I couldn't agree with you more, Mr. Miller. Please, I would be the last person to think that we ought to go away and squander American taxpayers' money.

I think we ought to respect that, and the taxpayers do expect us serving in the public service not only from the perspective of your positions and others of our outstanding civil service employees

working for the Federal Government, as far as also those of us who work from the legislative end. There is absolutely no question that the taxpayers' money ought to be accounted for.

At the same time too I think an understanding from the American public that some of the money that we have also wasted, and I don't want to get into that category about how we wasted American taxpayers' money in many other things that we have done, but putting Cambodia—and I would say I suppose in this \$7 billion you indicated that other countries also owe under the Public Law 480 program.

I would like to suggest and I hope that actually each country is taken on a case-by-case basis rather than just clump everybody together in this and suggest that one size fits all because Cambodia is very different. The situation of its history, what happened to the people and our own participation in that terrible period of this country's history is something that we ought to take into account. That is all I am trying to project.

You are absolutely correct. We have to account for the American taxpayers who pay the money to provide for these programs. If we do it for one country, to suggest that well, this country owes us \$7 billion when right on the other hand we are forgiving other countries millions and millions of dollars, so this is where I take what you are saying that well, as a matter of policy it is okay to forgive Jordan, but it is not okay to forgive others. That is where I am trying to balance the equation of saying let us be fair.

Given my own personal experience in visiting this country, meeting with the officials, seeing the people, they definitely have a very serious need. I am just trying to figure how we can continue justifying the idea that they have got to pay every penny back some way or somehow and the fact that they do owe other countries.

I would like to ask Secretary Marciel. Are they making payments to other countries on part of this \$2.5 billion owing?

Mr. MARCIEL. Yes, Mr. Chairman. Under the Paris Club agreement in 1995, Cambodia did reach bilateral agreements with other creditors and started paying them after that.

So you get into a situation where they are paying some creditors, but not paying us, which makes it frankly even more problematic for us.

Mr. FALEOMAVAEGA. Which raises the next question. Why aren't they paying?

Mr. MARCIEL. Well, as I said, we didn't reach a bilateral agreement. We always have bilateral agreements to implement these Paris Club deals. The Paris Club sort of sets the broad outlines and then the individual creditor countries work out bilateral implementation agreements with the debtor country, which we tried to do with Cambodia.

As I mentioned, the Cambodians did not want to recognize some of the debt from the Lon Nol era, and also there was some disagreement on the amounts. As we have said, in early 2006 the Cambodians did agree on the amount that they owed.

Mr. FALEOMAVAEGA. You mentioned that the World Bank has been involved in this. Is this also the same with the International Monetary Fund and the Asian Development Bank? Are they also involved in this?

Mr. MARCIEL. In this case it is a little bit different. The enhanced HIPC process of debt forgiveness the World Bank and the IMF are very involved.

The Paris Club the World Bank and IMF are not involved as creditors. It is individual countries, the main creditor countries, that are involved. There is some role particularly for the IMF, but not in forgiving debt or rescheduling debt in the Paris Club.

Mr. FALEOMAVAEGA. I am curious as to what are the reasons for the objections of the Cambodian Government for disagreeing or not agreeing to sign some kind of a bilateral agreement on the debt reduction.

If they are doing the same with other debtor countries, I am just curious what are the reasons why they completely are not willing to compromise or to work with us on this.

Mr. MARCIEL. Yes. There were discussions over the years.

As I said, as of early 2006 after a lot of negotiations we did reach agreement with the Cambodians on the amount. They agreed on the principal that they owed us in early 2006. We thought, at that time, Great, now we can move ahead and complete this bilateral agreement.

Mr. FALEOMAVAEGA. Which was how much?

Mr. MARCIEL. Let me double check. Three hundred and seventeen million dollars?

Mr. FALEOMAVAEGA. I have \$339 million as my final—

Mr. MARCIEL. Sorry. It was \$162 million in principal.

Mr. FALEOMAVAEGA. Principal. And then it is the interest that has caused the—

Mr. MARCIEL. Right. That is right.

Mr. FALEOMAVAEGA. Okay. Do you think they will be willing to pay on the interest and forget the principal? I am not a negotiator, but I am just curious. So the interest continues as we speak?

Mr. MARCIEL. Sure. It does. Again, that is part of the reason that the amount is at the levels that it is because they haven't been paying.

It is, you know, as if you and I didn't pay our credit card bill for years. It would mount up pretty high, although the interest rate is much lower in this case.

Mr. FALEOMAVAEGA. How much is the interest rate? Four percent?

Mr. MARCIEL. Three percent.

Mr. FALEOMAVAEGA. Three percent.

Mr. MARCIEL. It is quite low. Very low.

If I could just answer in a general way a couple of your comments?

Mr. FALEOMAVAEGA. Sure.

Mr. MARCIEL. First, I think we all agree that what the Khmer Rouge did there is unimaginable, and no one can go to Cambodia and see the situation there and not feel an enormous sense of emotion and desire to be helpful.

So we are not in any way suggesting we are cold-hearted and we don't want to help Cambodia, which is why we have this fairly significant assistance program.

Mr. FALEOMAVAEGA. I don't mean to interrupt you. It is so unfortunate that the stereotype, and I suppose that most of the Amer-

ican people look at Cambodia and the first thing they think of is Pol Pot and the genocide, but never think that one of the most beautiful and most historical structures in the world in Angkor Wat.

The culture, the height of civilization that existed in the country in that region of the world, was totally unbeknown to many of the American people. To put it in perspective, where most of these people are still in the jungle or have no sense of civilization, but knowing this is certainly not true.

I just wanted to seek your advice and where you think we need to go from here on this issue. I am sorry. I didn't mean to disrupt you. Please. By all means.

Mr. MARCIEL. Not at all. I absolutely agree with you. You were in Cambodia recently as I was.

Our real interest, as I said in my testimony, is we want Cambodia to succeed. We want it to be more prosperous and free and for people to enjoy good lives and so much of our diplomatic work, the work that Ambassador Mussomeli is doing, our assistance programs, are trying to help the Cambodians succeed. Absolutely. I don't think there is any greater interest we have in this country.

It is really more of a tactical question when it comes to whether to use debt forgiveness to do that. Our view is that the debt forgiveness and any kind of debt swap is fundamentally debt forgiveness with a budget cost.

There are several problems with it. One, the precedent that we discussed that it sets because, frankly, there are a lot of countries that want debt forgiveness and come to us regularly, a lot of poor countries that have a lot of needs, and so forgiving a debt, particularly when the country hasn't been making its debt payments, we think sets a troublesome precedent.

Mr. FALEOMAVAEGA. You are saying that at least try or at least make an effort or at least pay something because that seems to be the problem we are having with the Cambodian Government where they just absolutely refuse to pay anything.

Mr. MARCIEL. Yes. I am not saying that if they started paying, then tomorrow we would subsequently come up here and say, "Yes, we are ready to forgive the debt," but it—

Mr. FALEOMAVAEGA. No.

Mr. MARCIEL [continuing]. Certainly does affect it.

As my colleague pointed out, if they were to sign this agreement we have said we would be willing to go back because they would owe us immediately \$154 million, which they can't pay.

We would be willing and happy to go back to the Paris Club and say, "Let us reschedule that over a lengthy period of time so that it is manageable for the Cambodians." We are not looking, to use your term, to squeeze blood out of a turnip here.

The other point is the history of this debt and the moral issues. There are sort of longstanding, international principles here. We could debate them I am sure for a long time, but that governments are responsible for their obligations of the debts of their predecessors and that, so the Government of Iraq responsible for the debts accumulated under Saddam Hussein, et cetera, et cetera. We have never granted debt relief simply on the basis that the debts were incurred during a war or some other turbulent period.

The other point is there is a real cost—I mean budget cost—to doing a debt forgiveness. In the HIPC program and any other debt forgiveness we have to have legislative authority and appropriations to do, which we don't in the case of Cambodia.

Our view is that we can be very helpful to Cambodia and achieve many of the same goals through our assistance programs. As I said, we have a significant assistance program which we have had and which we hope to maintain, but forgiving debt sets a negative precedent.

It also could affect Cambodia's creditworthiness. I mean, this is a country that is trying to move forward. It is in the WTO. It is a big exporter. It is trying to get more international loans for developing itself. Sometimes debt forgiveness can affect a country's creditworthiness, so there are some negative consequences there as well.

So we are not at all opposed to the notion of trying to help Cambodia succeed. That is fundamentally what we are trying to do, but we would favor doing it through assistance and policy advice and so on as opposed to through debt forgiveness.

Mr. FALEOMAVAEGA. To be fair, every country in Asia is paying its debts owing to the United States except Cambodia?

Mr. MARCIEL. I don't know if every country is. We would have to check that.

Mr. FALEOMAVAEGA. Just in the Asia-Pacific region. Can you provide that for the record? I am curious if Cambodia is the only country that has not had a bilateral relationship in trying to make its debt payments.

Mr. MARCIEL. I will get you an answer. I don't know off the top of my head.

Mr. FALEOMAVAEGA. I would really appreciate it if you could submit that as part of the record.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. SCOT MARCIEL TO QUESTION ASKED  
DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

Cambodia is the only country in the East Asian and Pacific region that is not making any payments whatsoever on its official debts to the United States. Several other countries in the region, including South Korea and the Philippines, have incurred small amounts of arrears of less than \$30,000 due to technical billing issues, while continuing to make regular payments. In the South Asian region, Bangladesh currently has about \$5.83 million in arrears on certain of its USDA PL-480 loans, although Bangladesh is paying off its other PL-480 loans on schedule.

Mr. FALEOMAVAEGA. Mr. Miller, you indicated that right now currently under the Public Law 480 program that your Department also has accumulated over \$7 billion of debt owed by other countries to the United States. Who is the biggest debt owner? I am curious.

Mr. MILLER. Just looking quickly at the chart, it looks like Indonesia.

Mr. FALEOMAVAEGA. Indonesia owes us how much?

Mr. MILLER. As of December 31, according to the information I have, it looks like it was about \$568 million.

Mr. FALEOMAVAEGA. And they are paying it back?

Mr. MILLER. They are paying it. Yes, sir.

Mr. FALEOMAVAEGA. I see. How many countries in Southeast Asia in that region owe the Public Law 480 program besides Cambodia and Indonesia? Could you provide that as a list for the record?

Mr. MILLER. Sure.

[The information referred to follows:]

RESPONSE RECEIVED FROM MR. W. KIRK MILLER TO QUESTION ASKED DURING THE  
HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

**Commodity Credit Corporation**  
**P.L.-480 Summary**  
**As of December 31, 2007**

	P.L.-480 Principal Outstanding	P.L.-480 Principal Arrears	FY07 Principal Collections
<b>Southeast Asian Countries</b>			
<b>Cambodia</b>	200,801,742	67,648,665	-
<b>Indonesia</b>	568,371,993	-	60,516,023
<b>Philippines</b>	305,237,028	-	17,271,890
<b>Thailand</b>	2,649,872	-	405,893
<b>Vietnam</b>	21,959,036	-	1,604,822

Mr. FALEOMAVAEGA. I am curious.

Mr. DOSTER. Thailand, Indonesia and Vietnam are all paying.

Mr. MILLER. Yes.

Mr. FALEOMAVAEGA. They are all paying? Of course, Indonesia's economic growth is growing, what, 6 percent a year now? They are doing very well.

Mr. MARCIEL. It is about seven.

Mr. FALEOMAVAEGA. Seven. Six or seven percent.

Mr. MARCIEL. Cambodia is actually in the 8 to 10 percent range the last few years.

Mr. FALEOMAVAEGA. The 8 to 10 percent range?

Mr. MARCIEL. Yes. We would like to see it continue that way.

Mr. MILLER. Mr. Chairman?

Mr. FALEOMAVAEGA. Yes?

Mr. MILLER. I would like to correct my comment about Indonesia. Indonesia is not the largest. Egypt is actually the largest. I was not looking at all the pages.

Mr. FALEOMAVAEGA. Egypt is the largest?

Mr. MILLER. Yes, it is.

Mr. FALEOMAVAEGA. How much do they owe?

Mr. MILLER. \$2 billion.

Mr. FALEOMAVAEGA. \$2 billion?

Mr. MILLER. Yes, sir.

Mr. FALEOMAVAEGA. And we are giving them \$3 billion every year for economic assistance? That was the bilateral peace agree-

ment that we have had for all these years with Egypt and Israel, if you recall.

Mr. MILLER. They are paying this.

Mr. FALEOMAVAEGA. Every year we give Israel and Egypt about \$3 billion in economic assistance.

Mr. MILLER. Again, Mr. Chairman, just to remind you, this is \$2 billion, and it is 40-year terms so much of this has been accumulated over a long period of time, many loans over many, many years.

In total scheme of things it is not unreasonable. They are making their payments on time. It is not a payment problem. It is just an accumulation of many years of agreements that they have received.

Mr. FALEOMAVAEGA. \$2 billion owing and making payments. So long as they are making some kind of payment it is okay with us?

Mr. MILLER. Correct.

Mr. FALEOMAVAEGA. A 40-year period. It has now accumulated over a \$2 billion debt.

Maybe Cambodia ought to do the same then. Is that how we should go about and get the debt payments?

Mr. MARCIEL. Our view would be that implementing the Paris Club agreement from 1995 would be the way to go.

As I said, we would be willing to go back to the Paris Club if necessary to reschedule the arrears that would be due immediately, but our sense is in the IMF/World Bank extent that the debt payments are sustainable for Cambodia, so the Paris Club deal did extend those debts over many years, those debt payments over many years.

Mr. FALEOMAVAEGA. So for all these years our country is looking at the Paris Club agreement as kind of like the basic arbitrator they go to, the collaborative group to help us if there is ever a question of debt obligations?

Mr. MARCIEL. Right. Many countries use it. I mean, the fundamental idea behind it is that if a country can't make its debt payments, it is in the interest of the creditors to work something out so that they can make the debt payments. We don't want the country to go broke, and we do eventually want to get our loans repaid.

The Paris Club works to reschedule the debt, working in coordination with the IMF to come up with a debt payment schedule that is manageable so that the country is relieved from excessive burden, the debtor country, and yet the creditors can feel reasonably confident that they are going to get repaid over time.

In the case of Cambodia, maybe Kirk has the details on it, but the 1995 agreement in the Paris Club was quite generous, I believe 40 years rescheduling for the concessional debt such as the USDA debt.

Mr. FALEOMAVAEGA. Mr. Secretary, can you submit for the record a listing of all the debt forgiveness that we have done to various countries of the world?

Mr. MARCIEL. All the debt forgiveness?

Mr. FALEOMAVAEGA. Yes, for the last 5 years maybe. I am sure we have a listing of—

Mr. MARCIEL. I am sure we do.

Mr. FALEOMAVAEGA [continuing]. Countries that we have forgiven their debts and for whatever reasons. Obviously it is prob-

ably for political reasons, for security reasons, and not necessarily because this is taxpayers' money owing which is forgiven.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. SCOT MARCIEL TO QUESTION ASKED  
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We are providing the list of countries requested, as well as identification of the principal debt relief programs involved.

**USG Debt Reduction Since 2002**

<b>Country</b>	<b>Program</b>
Afghanistan 1/	HIPC
Bolivia	HIPC
Cameroon	HIPC
Central African Republic 1/	HIPC
Democratic Republic of Congo 1/	HIPC
Republic of Congo (Brazzaville) 1/	HIPC
Ethiopia	HIPC
Ghana	HIPC
Guinea	HIPC
Guyana	HIPC
Haiti 1/	HIPC
Honduras	HIPC
Madagascar	HIPC
Mali	HIPC
Mauritania	HIPC
Mozambique	HIPC
Nicaragua	HIPC
Niger	HIPC
Rwanda	HIPC
Senegal	HIPC
Sierra Leone	HIPC
Tanzania	HIPC
Uganda	HIPC
Zambia	HIPC
Cote d'Ivoire 2/	Pre-HIPC / Special Debt Relief for the Poorest
Yemen	Special Debt Relief for the Poorest
Nigeria	Section 14 of Export-Import Bank Act of 1945, as amended
Botswana	TFCA
Colombia	TFCA
Costa Rica	TFCA
Guatemala	TFCA
Jamaica	TFCA
Panama	TFCA
Paraguay	TFCA
Peru	TFCA



<b>Country</b>	<b>Program</b>
Philippines	TFCA
Iraq	Special legislation
Pakistan	Special legislation
Federal Republic of Yugoslavia 3/	Special legislation

1/ The U.S. has committed to forgiving these countries' debt, provided that certain conditions are met, including reaching HIPC completion point.

2/ The U.S. provided partial debt reduction to Cote d'Ivoire in 1998 under the original HIPC initiative. When the U.S. and other Paris Club creditors provided additional debt reduction in 2002, Cote d'Ivoire had not yet qualified for the enhanced HIPC initiative in effect at the time.

#### Selected Legislative Authorities Permitting Debt Reduction

- International Debt Relief for Heavily Indebted Poor Countries (HIPC), Title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106-113, 113 Stat. 1501A-311 et seq., as amended. Congress recently extended the authorization of appropriations under this statute until 2010. Section 699H(b)(1) of Division J (Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008) of Pub. L. No. 110-161.
- Tropical Forest Conservation Act of 1998 (TFCA), Public Law 105-214, adding Part V, sections 801 et seq., to the Foreign Assistance Act of 1961, 112 Stat. 885, as amended, codified at 22 U.S.C. § 2431, et seq.
- Special Debt Relief for the Poorest, Section 662 of Division J (Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008) of Pub. L. No. 110-161. Congress has included similar provisions in the annual Foreign Operations bills since 1994.
- Section 14 of the Export-Import Bank Act of 1945, 12 U.S.C. § 635i-8, as amended.

Mr. FALCOMA. Now, I would like to go back to the American taxpayer and say how I was able to justify forgiving hundreds of millions of dollars to this or that country, and I suspect for good reason that we have done it.

Here again, I just want to say that the thing that troubles me the most again, if we can agree on the history of what befell Cambodia in the 1970s, the people and the country. It should be something that cannot, as I have said earlier, be measured in dollar terms, but only can be measured in human suffering, the genocide that was committed, the problems that the country has had to pick itself up from, the dust from nothing.

It is just hard for me to imagine. Only 69 intellectuals were left by the time Pol Pot got through in torturing and killing over 1.7 million Cambodians because of an ideology that is so bent out of joint, so to speak, and way, way off from what the people had hoped and desired for.

I do want very much to continue working with your respective offices. We will also continue dialogue with the Department of

Treasury. I realize this comes down to really it is a matter of policy. We can talk about systems and how we can do it.

The question of fairness comes into play. The question of whether or not the American taxpayers' money has been properly spent and utilized and then the question of what does this really mean in our overall security interest, economic interest in this region of the world.

I visited Vietnam after 40 years' absence from the time that I was in Vietnam as a soldier. So much had come in my own sense of ignorance and not understanding how our national media and our national Government have portrayed a leader like Ho Chi Minh. As far as I can recall as a soldier, Ho Chi Minh was the most evil person on this planet.

Pleading ignorance or not even having the time or should have the time in reading what befell not just Vietnam but all of Southeast Asia where I would suspect that 99 percent of the American people have no idea probably where Vietnam was located except after sending half a million soldiers in that part of the world and then end up stuck there for some 10 years and trying to figure what exactly is our policy and portraying Ho Chi Minh as the most evil person, a Communist.

And then I realized that what Ho Chi Minh was trying to do was to fight against French Colonialism that had existed there among his people for some 100 years, as was true in many other Southeast Asian countries that were colonized by countries from Europe who had advocated so strongly the principles of democracy and freedom and then right on the other hand said no, we want to keep these guys under our rule.

It just puts a whole different perspective about what really transpired and what happened and ideology of someone like Pol Pot. Unfortunately, like I said, many of our people here in America really do not understand enough. I don't mean to say or demand or suggest that everybody should know what is going on because that is just not the case.

Having visited Cambodia for the first time, after seeing what I saw there I honestly think that our country also is a nation of compassion, a country that really has an appreciation of what it means when people suffer like the way they did in that period of their history.

I sincerely hope that the administration will take it from that perspective and will understand that all the money in the world isn't going to change human behavior to see that these people—and they are looking at America in a very positive way. I hope sincerely that they will continue to have that positive attitude toward America.

I don't think they are begging or asking us, demanding or expecting something for nothing, but maybe because of certain principles, problems that they were confronted with, and I hope that our negotiators will look at Cambodia again in a different light.

For what I have seen not only are they asking for help, but it seems that it is one of these contradictions. They are indebted to us, and yet at the same time we continue giving them help as we probably are doing in most other countries of the world as well.

Mr. Miller, do you think we should do something? Is our Public Law 480 program still in place in Cambodia?

Mr. MILLER. We are not operating the Public Law 480 Title I program. We have stopped operating that anywhere in the world, to be truthful about it.

Mr. FALEOMAVAEGA. I see.

Mr. MILLER. It was about 2 years ago we stopped asking for appropriations for that program. It was at a time when globally there was liquidity in the world. Many of these countries could get financing, and there was not the demand for it.

We have had other means for providing assistance, as I outlined in the testimony, some of the programs like Food for Progress, the Food for Education Program, other mechanisms in which we are providing help. Some of the programs bring some of their newborn scientists and technicians to the United States for training here, many programs like this where we are reaching out to them and trying to provide help in that way.

Mr. FALEOMAVAEGA. And I think I understand why we have had to cut the program. Cambodia is a classic example. With good intentions we gave assistance, and it falls into the wrong hands. It falls into the hands of dictators and people who then use it for their personal political purposes, and it doesn't really go out to the people who really need the help.

So understandable, but what a way to take all these years and say, well, it doesn't work so we have to do something else. Maybe on a more practical sense give assistance where assistance is needed and not just making it as a mill that we give these programs funding automatically as if it was candy to these countries.

Mr. MILLER. Mr. Chairman, I would like to suggest to you we have had many, many excellent success stories as a result of these programs.

I think that I have had colleagues that I have talked with in Korea, South Korea, before that have talked about the rebuilding that occurred there after the war. People and agriculture in that country, the agri-food processing industries, give a lot of the credit to the Public Law 480 Title I programs and the success they have had with those programs.

I just noticed my colleague gave me information that reminded me that just in this last year Russia has repaid \$470 million of Title I programs. They have the money now, and they have repaid it.

We have had many, many countries that we have worked with down through the years that give a lot of credit to the success and the kindness and generosity of the American people through the Title I program, so it was a great tool, a great asset in its time, and we are hopeful that we can stay contemporary and find other assets that are just as useful.

Mr. FALEOMAVAEGA. Mr. Miller, can you state for the record what exactly was the reason why we decided not to fund the program anymore?

Mr. MILLER. I am sorry?

Mr. FALEOMAVAEGA. Can you state for the record why exactly we decided not to fund the program anymore?

Mr. MILLER. Well, the information that I have been given is that the requests for the Title I program went down. There were very few governments that requested it.

Again, with the other access to liquidity and commercial financing and other financing available through the World Bank and other sources there was not the demand for the program so we have switched those funds that were used in the Title I program over to the Public Law 480 Title II program through the Agency for International Development.

Mr. FALEOMAVAEGA. I see. Do you gentlemen have any more comments? I have one or two more questions.

Mr. MARCIEL. Mr. Chairman, not really a comment, but I would like to, looking over my longer written testimony, when we get back to you with the list of countries for which we have provided debt forgiveness I would like to also for the record put in a little bit more detailed explanation of the criteria.

Mr. FALEOMAVAEGA. Please. By all means. Without objection.

Mr. MARCIEL. Because it is a little bit more complicated than what I said to you, and I want to just for the record make sure it is in writing.

Mr. FALEOMAVAEGA. Without objection.

I don't have any other witnesses, and unfortunately my colleague, the senior ranking member, is unable to return. I suspect they are probably through with the vote right now.

I am going to close our hearing this afternoon and again want to thank you both, gentlemen, and your respective agencies for allowing you to come and testify before this committee. I hope that we will find a resolution to the needs of Cambodia.

Thank you again for coming. The hearing is adjourned.

[Whereupon, at 3:15 p.m., the subcommittee was adjourned.]



## A P P E N D I X

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### MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE DONALD A. MANZULLO, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman, thank you for holding this hearing on Cambodia and the need for debt relief. I commend your tireless efforts and hard work in bringing to our attention important issues such as the one we are discussing today.

The Kingdom of Cambodia and her beautiful people have endured the unimaginable pain of genocide and failed governance for far too long. For decades this country in the heart of Southeast Asia has seen its neighbors develop and succeed while it remained chained in poverty. So, I fully support the Administration's efforts to provide development assistance and support to Cambodia so that its future can be brighter than the past.

Recent improvements in Cambodia hold a glimmer of hope that the domestic situation may finally be turning for the better. I note that a number of senior Administration officials have visited Phnom Penh to further our engagement. However, despite these improvements, some serious structural deficiencies still exist. Rampant corruption in the public sector is one of the most serious threats to Cambodia's development. In fact, an eye opening report published by Global Witness, which is a highly respected organization, estimates public sector corruption in the timber trade at \$100 million. If left unchallenged the possibility of even worse corruption in the future is very real. According to a Radio Free Asia article from March 2007, Cambodia stands to reap billions of dollars in new revenue from future oil and gas deals. If corruption takes hold in the extractive industries it will ensure that Cambodia remains locked in poverty for the foreseeable future. I submit for the Record both documents from Global Witness and Radio Free Asia.

As a result of these very real problems, I do not believe that granting debt relief to Cambodia will lift that country out of poverty. First, Cambodia does not even qualify for debt relief because its debt load remains serviceable. In order to qualify for debt relief a country's debt must meet or surpass a ratio of 150 percent debt-to-export and 250 percent of debt-to-revenue. According to the International Monetary Fund, Cambodia's debt-to-export ratio is only 32 percent and its debt-to-revenue ratio is 188 percent.

Second, Cambodia is already awash with significant levels of development assistance from a number of countries, and it is the third-largest recipient of American foreign assistance in Asia, receiving \$62 million in U.S. dollars in 2007. In fact, overseas development aid totals approximately half of Cambodia's annual gross domestic product. But decades of poor governance has resulted in Cambodia's inability to use foreign assistance in a productive way to build a better future. America's goal should be to help Cambodia break free from the chains of poverty and onto a path of self sustainability. Assistance in public sector reform, skills training, and market development is the way to help Cambodia stand on its own.

Despite concerns regarding corruption, America remains a committed friend of Cambodia and her people. We are working with the Cambodians on a number of important issues, such as prevention of HIV/AIDS, maternal health, demining, and good governance. Since Fiscal Year 2001, the United States Department of Agriculture has provided more than 66,000 tons of agricultural commodities to assist the people of Cambodia. However, we must ensure that our foreign aid dollars are being used in a proper manner, and not to exploit human and natural resources for the personal gain of a few. Cambodia must prove that they are committed to reforms in these areas before we commit to help them further.

Mr. Chairman, thank you for calling this hearing. I look forward to the testimonies.

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MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE DONALD A. MANZULLO,  
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

CAMBODIA OIL WINDFALL SPARKS CORRUPTION CONCERN

Radio Free Asia (RFA.org)  
2007.03.12

Cambodia may reap billions of dollars in new revenues from offshore oil and gas fields in coming years, but experts fear such a windfall might be misspent. Prime Minister Hun Sen has so far brushed aside international concerns about lack of fiscal accountability.

Cambodia's good fortune began in 2005 when U.S.-based Chevron found promising oil deposits at offshore test wells some 87 miles (140 kms) southwest of the port of Sihanoukville.

Preliminary estimates of the recoverable reserves are 400–500 million barrels of oil and 2–3 trillion cubic feet of gas. Cambodia's total reserves could run as high as 2 billion barrels and 10 trillion cubic feet of gas, according to the World Bank.

In a country with an annual per capita income of about \$500 last year, the discovery of oil that could sell on world markets for \$60 per barrel might be good fortune indeed.

But instead of celebrations, the news has met with warnings that Cambodia lacks the strong government and civil institutions to turn oil revenue into public benefits.

A study of Cambodia for the United Nations Development Program (UNDP) in 2005 warned that Cambodia might follow the path of Nigeria, where new oil wealth turned into a "resource curse."

Despite huge capital inflows from oil, Nigeria's GDP has grown less than its population since 1980, while corruption and social unrest have risen because revenues have been misspent, the report said.

But at a student graduation ceremony Feb. 28, Cambodian Prime Minister Hun Sen showed little patience with warnings that his country could follow the same path.

"Some people are worried about the Nigerian disease, saying that it should not be allowed to reach Cambodia. I have told them that Cambodia is not that stupid," the prime minister said in remarks reported by the Associated Press.

*Legitimate concern?*

In an interview with Radio Free Asia, David Dapice, a senior economist at Harvard University and author of the UNDP study, said that Cambodia should move quickly to implement reforms before the money starts flowing in.

"There is legitimate concern that Cambodia has work to do," said Dapice.

"There is a tendency toward big, prestige, wasteful investments. There is a tendency sometimes for things to cost more than they should, even if they're appropriately chosen. And the legal system certainly needs to be strengthened, so that if there are cases of corruption they can be identified and then prosecuted in a proper way," Dapice said.

"These are not areas right now where, at the moment, Cambodia has strength. They need to get better in these areas."

Dapice said that recent improvements in Cambodia's agricultural output and poverty reduction give hope that new funds from energy can be used productively, especially if nongovernmental organizations (NGOs) are allowed to serve in some watchdog role.

The greatest danger is that oil money could be diverted into pockets that have already started to concentrate wealth, especially through land ownership, said Dapice. That risk could be particularly high, he added, if large cash bonuses are paid in the awarding of oil development contracts.

"You could end up basically displacing large numbers of farmers who would then probably drift into the cities, and you would have an over-urbanized society with very few decent jobs and a lot of crowding and everything, and that typically leads to social instability."

Dapice said that Cambodia will have to foster good governance and institutions in several sectors at once so that it can handle the new oil money transparently.

"A lot of different parts of a society have to work," he said. "The legal system, the newspapers, the NGOs, and of course the government itself has to be committed to it."

“So there are real challenges here, and things could go badly wrong. But if people work on it and try to direct the resources in a reasonably productive way, I think there’s nothing that says that it’s written that it has to be as bad as Nigeria.”

Original reporting by Michael Lelyveld. Edited for the Web by Richard Finney.

## Recommendations

### RECOMMENDATIONS

#### CAMBODIA'S JUDICIAL AUTHORITIES SHOULD:

1. Hold accountable those responsible for illegal logging and associated crimes
- Investigate and prosecute all those responsible for the cases of illegal logging, corruption, smuggling, attempted murder and kidnapping detailed in this report.
- Prioritise investigation of the following people: Minister for Agriculture, Forestry and Fisheries (MAFF) Chan Saron,<sup>1</sup> Director General of the Forest Administration (FA) Ty Sokhun,<sup>2</sup> Hun Sen Bodyguard Unit commander Lieutenant General Hing Bun Heang,<sup>3</sup> Brigade 70 Brigadier General Hak Mao,<sup>4</sup> logging syndicate leaders Dy Chouch,<sup>5</sup> Seng Keang,<sup>6</sup> Khun Thong<sup>7</sup> and Seng Kok Heang.<sup>8</sup>

#### THE ROYAL GOVERNMENT OF CAMBODIA SHOULD:

1. Hold accountable those responsible for illegal logging and associated crimes
  - Support the efforts of the judicial authorities to investigate and prosecute those responsible for the illegal activities detailed in this report.
  - Dismiss any government ministers, officials and military officers responsible for these illegal activities.
2. Protect the Prey Long Forest
  - Take Prey Long, mainland Southeast Asia's largest lowland evergreen forest, out of production. Develop an alternative management regime for Prey Long, based on consultation with local populations, which prioritises conservation and safeguards the usage rights of people living in and around the forest.
3. Reform forest management
  - Reinstate independent forest monitoring (IFM) based on a robust institutional framework and terms of reference, following a period of public consultation. Appoint a qualified organisation on the basis of an open tendering process conducted in line with international best practice.
  - Terminate the logging concession system, in line with recommendations of the 2004 Independent Forest Sector Review (IFSR).<sup>9</sup>
  - Cancel plans to introduce a new system of annual bidding (logging) coupes.

- Terminate all economic land concessions (ELCs) and mining concessions that are situated in forest or are otherwise contrary to existing law.
- Develop a new forest management regime based on the recommendations of the IFSR. This should centre on expanded community forestry, partnership forestry and landscape-based conservation programmes.<sup>1</sup>
- Recognise the prior claims of indigenous minorities, as required by the Land Law, in determining the status and usage of forested areas.
- Ensure that any future logging and tree plantation ventures meet Forest Stewardship Council (FSC) or equivalent standards and follow consultation with affected communities.
- Complete and pass the new Protected Areas Law and all outstanding sub-decrees and *prakas* (ministerial declarations) required under the 2002 Forestry Law. Ensure that drafts are made publicly available prior to passage, allowing sufficient time for public comment.
- Impose a moratorium on the construction of roads through forested areas, in line with the recommendations of the 2004 IFSR.

4. Take immediate steps to increase transparency in the management of public assets
  - Ensure full and continued disclosure of information concerning the management of public assets such as forests, land, oil and gas, mineral deposits, fisheries, heritage sites and state-owned buildings.
  - Ensure that this information includes the following: investment agreements, contractual conditions and compliance status (completion of satisfactory environmental and social impact assessments (ESIAs), payment of royalties etc); exploration, exploitation, transportation and export permits awarded; names and details of the beneficial owners of the companies concerned.
5. Strengthen the legal framework governing the management of public assets
  - Include in the draft Anti-Corruption Law the following provisions:
    - A guarantee that all Cambodian citizens have rights of access listed above.
    - Prohibition on individuals or companies that have a record of illegal activities managing public assets of any kind.

<sup>1</sup> Partnership forestry is a new model proposed by the 2004 Independent Forest Sector Review. It would give a greater say in forest management decision-making to elected committee councils, with the Forest Administration playing a regulatory role.



- Requirement that all contracts between the government and companies concerning the management, exploration or exploitation of natural resources and other public assets proceed from an open tendering process conducted in line with international best practice.
- Requirement that all private sector operators holding concessions on public assets annually disclose the payments they make to the government in the form of taxes, royalties, signature bonuses etc.
- Requirement that the government annually discloses details of all taxes, royalties, signature bonuses etc. received from concessions on public assets.
- Requirement that the government maintains a regularly updated and publicly accessible register of senior officials' business interests and personal assets, as well as those of their family members.
- Pass and implement the Anti-Corruption Law without further delay.

#### 6. Ensure transparent management of oil and gas revenues

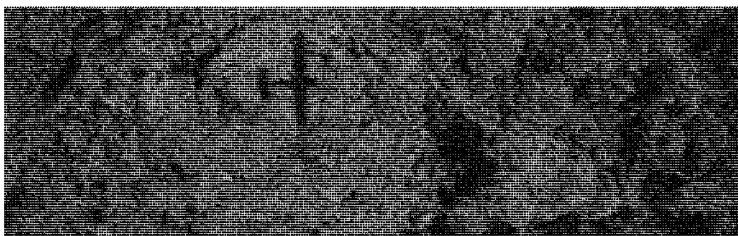
- Implement the revenue management measures set out in the IMF's Guide on Resource Revenue Transparency.<sup>10</sup>
- Join the Extractive Industries Transparency Initiative.<sup>11</sup>

#### 7. Reform the Royal Cambodian Armed Forces (RCAF)

- Withdraw all military units stationed inside or on the boundaries of protected areas.
- Disclose the location and legal status of all the military development zones. Terminate all those that are situated on forests, in protected areas, or are otherwise contrary to existing law.
- Overturn the recently introduced conscription law and embark on a comprehensive restructuring of RCAF to create a professional military force that meets Cambodia's defence needs.

#### CAMBODIA'S INTERNATIONAL DONORS SHOULD:

1. Use their influence proactively to ensure that aid benefits ordinary Cambodians
  - Donors should link disbursement of non-humanitarian aid to demonstrable progress in implementing the measures outlined above, in accordance with set time-lines.
2. Withheld support from state institutions engaged in serious criminal activities
  - In particular, donors should not provide funding or other forms of support to RCAF until such time as it ceases its involvement in large-scale organised crime.
3. Support Cambodian civil society's efforts to increase government accountability
  - Provide more support to Cambodian organisations working to build government accountability with respect to the management of public assets. Specifically, build the capacity of local civil society to document, monitor and scrutinise the management of natural resources and other public assets and ensure transparent public sector spending.
4. Help to protect Cambodia's forests as part of international efforts to combat climate change
  - Act on the conclusion of the recent UK government-commissioned Stern Review on the Economics of Climate Change, that international efforts to combat climate change must prioritise the preservation of existing natural forests.<sup>12</sup>
  - With respect to Cambodia, dedicate funds and expertise to developing new incentives and institutional frameworks for preserving key areas such as Prey Long Forest.



Cambodia's Prey Long Forest

## SUMMARY

This report makes the case for greater efforts by the Cambodian government and the international community to strengthen the governance of forests and other public assets on which Cambodia's people depend. It is based on in-depth investigations into illegal logging and associated criminality carried out by Global Witness between the end of 2004 and the beginning of 2007.

The report's main findings are as follows:

## 1. A kleptocratic elite is stripping Cambodia's forests

- Cambodia is run by a kleptocratic elite that generates much of its wealth via the seizure of public assets, particularly natural resources. The forest sector provides a particularly vivid illustration of this asset-stripping process at work.
- Illegal logging is causing severe damage to Cambodia's remaining forests. The last global forest cover survey by the Food and Agriculture Organisation (FAO) found that Cambodia had lost 29% of its primary tropical forest over a five year period.
- Cambodia's army, military police, police and Forest Administration (FA) are all heavily involved in illegal logging.
- In many cases illegal logging is taking place under the guise of legally dubious plantation developments and harvesting permits. Many of these plantations and permits are being allocated to a small group of individuals who have close relations with senior politicians.
- A particular concern is the damage illegal loggers are causing to Prey Long, which is the largest lowland evergreen forest in mainland Southeast Asia. The Cambodian government is currently developing plans to clear tens of thousands of hectares of Prey Long to make way for plantations.



Hun Sen greeting senior officials

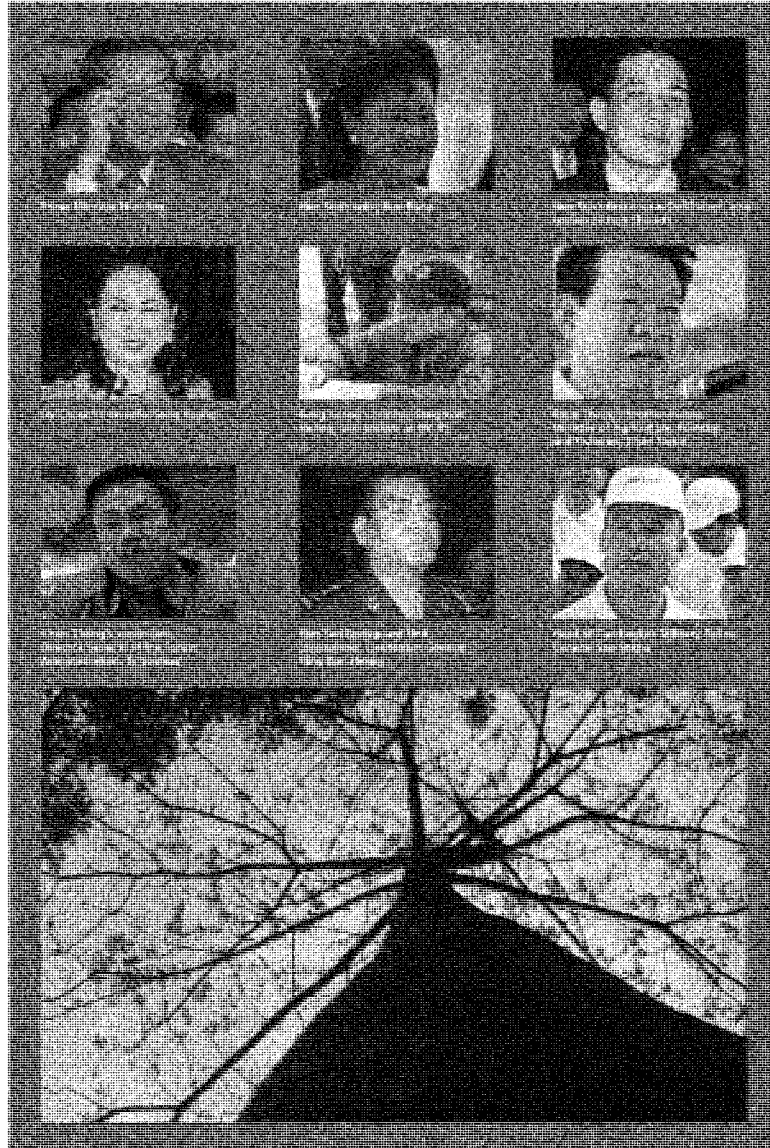
2. Cambodia's most powerful logging syndicate is led by relatives of Prime Minister Hun Sen<sup>13</sup> and other senior officials

- The most powerful logging syndicate in Cambodia is led by Dy Chouch, also known as Hun Chouch, his ex-wife Seng Keang and Khun Thong, their business partner. This group operates under the name Seng Keang Company.
- Dy Chouch is the first cousin of Prime Minister Hun Sen.
- Seng Keang is a friend of Bun Rany, the wife of Hun Sen.
- Khun Thong is the brother-in-law of Minister for Agriculture, Forestry and Fisheries (MAFF) Chan Sarun and father-in-law of Director General of the Forest Administration Ty Sokhun.
- Seng Keang's brother, Seng Kok Heang, who supervises operations for Seng Keang Company, is an officer in the Royal Cambodian Armed Forces (RCAF) Brigade 70 elite military unit.

## 3. Activities in which members of this logging syndicate are implicated include the following:

- The apparent abduction and detention of Lia Chun Hua,<sup>14</sup> the managing director of the Kingwood Industry logging company.
- Large-scale illegal logging in the Prey Long Forest carried out under the guise of the Tumring Rubber Plantation development.
- Felling of thousands of resin-producing trees tapped by local people who depended on them as a source of income. Resin trees are protected under Cambodian law.
- A reported attempt by Seng Kok Heang to kill two community forest activists in Tumring who protested against the Seng Keang Company's felling of resin trees.
- Use of fraudulent transportation permits describing logs as lesser-value firewood. This may have cost the Cambodian treasury over a million dollars in lost tax revenues.
- The export to China of millions of dollars-worth of plywood on which no taxes appear to have been paid.
- Establishment in Tumring of a factory for sawing wood and making veneer. Cambodia's Forest Law prohibits construction of wood-processing facilities in forest areas.
- This factory's processing of over 100,000 cubic metres (m<sup>3</sup>) of logs a year into timber products worth more than US\$13 million annually. Most of the logs used were cut illegally in Prey Long.
- The above activities are covered by existing Cambodian law and are punishable by prison sentences and fines. Dy Chouch, Seng Keang, Khun Thong and Seng Kok Heang have not been prosecuted, however.

<sup>13</sup> References for the points covered in this section can be found in the main body of the report.



#### 4. Senior officials are complicit in these activities

- Prime Minister Hun Sen personally inaugurated the Tumring Rubber Plantation that provided the basis for massive illegal logging of Prey Long by the Seng Keang Company.
- Establishment of this plantation followed a survey of the Tumring site by MAFF, which is run by Chan Sarun. His brother-in-law, Khun Thong, is a leading figure in the Seng Keang Company. This MAFF survey misleadingly categorised the area as land containing only small amounts of valuable forest.
- Despite claiming a lack of valuable timber in the area, Chan Sarun awarded exclusive rights to Seng Keang Company to collect and process all wood cut in Tumring Rubber Plantation.
- Chan Sarun subsequently gave the company the permit to establish its wood-processing factory in Tumring, despite the fact that this was illegal.
- The FA, which is run by Khun Thong's son-in-law Ty Sokhun, has played a key role in facilitating Seng Keang Company's illegal logging and other criminal activities.

#### 5. Evidence suggests that some of these senior officials are directly responsible for corruption within the institutions that they head

- There is substantial evidence that Chan Sarun and Ty Sokhun have illegally sold 500 or more jobs in the Forest Administration.
- Officials have calculated that selling jobs netted Chan Sarun more than US\$2.5 million in bribes.
- The desire to recoup the costs of purchasing these positions appears to account for the increasingly corrupt behaviour of many FA officials.
- Corruption and collusion in forest crime are both covered by existing Cambodian law and punishable by prison sentences and fines. No senior official has yet been either charged or disciplined in connection with the sale of jobs or the illegal logging in Prey Long, however.

#### 6. Hun Sen's private army is financed through illegal logging and smuggling

- In transporting illegally-logged timber out of Prey Long, the Seng Keang Company has worked closely with Royal Cambodian Armed Forces Brigade 70. Brigade 70 acts as a reserve force for Hun Sen's 4,000 strong Bodyguard Unit. The two units comprise what is essentially a private army controlled by the prime minister.
- Aside from its activities in Prey Long, Brigade 70 acts as a nationwide timber trafficking service. It transports illegally-logged timber all over Cambodia and exports significant quantities to Vietnam.
- The officer organising these operations is

Brigadier General Hak Mao. His main protectors and patrons include Hun Sen Bodyguard Unit commander Lieutenant General Hing Bun Heang and national head of the military police General Sao Sokha.<sup>15</sup>

- Brigade 70's clients are a 'who's who' of major timber barons in Cambodia, including the infamous Pheapimex company run by Hun Sen crony Yeay Phu, as well as government officials and generals.
- In the second half of 2006, Brigade 70 was transporting an average of 1,260 m<sup>3</sup> illegally-logged timber per week. Through these timber trafficking operations, Hak Mao makes approximately US\$1.2 million per year.
- Brigade 70 operates a parallel service transporting smuggled goods through ports on Cambodia's south coast, notably Oknha Mong Port, which belongs to Mong Reththy,<sup>16</sup> a tycoon who is also a senator for Hun Sen's Cambodian People's Party (CPP).
- The Brigade 70 illegal timber and contraband trafficking operations combined are worth between US\$2 million and US\$2.75 million annually.
- The profits are used to pay for the operations of Brigade 70 itself. In addition, a large cut is handed over to Hun Sen Bodyguard Unit commander Lieutenant General Hing Bun Heang.
- These activities are covered by existing Cambodian law and are punishable by prison sentences and fines. To date none of those responsible have been prosecuted.
- Despite the evidence of entrenched criminality within the Royal Cambodian Armed Forces international donors such as China and the USA are now providing direct military assistance to Cambodia.

#### 7. Cambodia's international donors are not using their influence effectively

- International donors annually provide approximately US\$600 million per year in aid to Cambodia. This is equivalent to half the national budget.
- Donors have not used the leverage that this aid gives them effectively. Specifically, they have refused to acknowledge the fact that the government is thoroughly corrupt and does not act in the best interests of the population.
- As a result, billions of dollars-worth of aid funded by western taxpayers have done relatively little to improve the lives of ordinary Cambodians.
- Moreover, donor support has failed to produce reforms that would make the government more accountable to its citizens. Instead, the government is successfully exploiting international aid as a source of political legitimacy.

Table 1 Table 1 

STATEMENT SUBMITTED FOR THE RECORD BY MS. DANIELLE PALS, ADVOCACY  
FELLOW, JUBILEE USA NETWORK

On behalf of Jubilee USA Network, I would like to thank Chairman Faleomavaega and members of the Subcommittee for holding the February 14 hearing, calling attention to Cambodia's need for debt cancellation. I also acknowledge Mr. Scot Marciel of the Bureau of East Asian and Pacific Affairs of the U.S. Department of State and Mr. W. Kirk Miller of the United States Department of Agriculture for their testimony before the committee. I also thank the subcommittee for the opportunity to submit additional information for the record.

Jubilee USA is an alliance of more than 80 religious denominations, faith-based networks, development agencies, and labor, environment and community organizations working to generate the political will for more responsible lending and cancellation of unjust debts to fight poverty in Africa, Asia, and Latin America. Founded in 1997, Jubilee USA is the US arm of the global Jubilee debt cancellation movement.

Upon reviewing oral and written testimony from the February 14th hearing, Jubilee would like to offer some additional input on Cambodia's need for debt relief, the World Bank/IMF's debt relief initiative (HIPC), and the issues of odious debt. First, we believe that as an extremely poor country, Cambodia should be granted debt cancellation in order to free funds for domestic social spending. Second, Jubilee will dispute the idea that a government's obligations under the international legal principle of *pacta sunt servanda* (referred to by Mr. Scot Marciel in paragraph 18 of his written testimony) extends to odious debt incurred under an illegitimate regime. Based on this argument, Jubilee USA concludes that Cambodia's bilateral debt with the United States is an example of odious debt that should be void under international law.

CAMBODIA NEEDS DEBT CANCELLATION TO FIGHT POVERTY

Cambodia has a per capita income of US\$ 440, and a Human Poverty Index below 84 of the 108 developing countries in the world.<sup>1</sup> The country also has a significant debt burden, with an external debt per capita of US\$249.80 and a total debt stock of US\$ 2.9 billion.<sup>2</sup> While Cambodia's debt distress has been labeled 'moderate' by the IMF and World Bank, and it does not meet the criteria for entrance into the Highly Indebted Poor Countries initiative, this extremely poor country should be granted debt relief to enable it to increase social spending and combat extreme poverty.

A growing number of NGOs, governments and analysts agree that the HIPC Initiative eligibility criteria fail to take into account the most critical factor: poverty. In his July 2007 Report to the General Assembly, UN Secretary General Ban Ki Moon noted that "debt relief has been too slow," and should be expanded to additional low-income countries which were not part of HIPC and MDRI initiatives with the ultimate objective of reaching the Millennium Development Goals.<sup>3</sup>

By focusing on the debt-to-export ratio (and requiring a very high 150% ratio of debt-to-exports) as one of the primary eligibility determinants, the current debt relief initiative falls short. An alternative model would look at poverty levels or a country's per capita income and its ability to use released funds to fight poverty. By removing a country's debt burden as a determinant of eligibility, we could correct the problem inherent in previous debt relief efforts when countries with less debt (which, it might be argued, borrowed more responsibly) did not benefit, while highly indebted countries did. As Lesotho's Finance Minister told Reuters after the G8 debt deal of 2005, "It is important that those who have paid their debts well, who run their mega-finances well, should be rewarded with debt forgiveness."<sup>4</sup>

According to Bernhard Gunter of the Bangladesh Development Research Center, there are 30 countries that are both poorer and more indebted (using a debt-poverty ratio) than the least poor and least indebted eligible HIPCs.<sup>5</sup> Cambodia is one of these countries, with a Human Poverty Index (HPI) of 41.3 and a debt-to-income ratio of 68, while the least poor eligible HIPC (Bolivia) has an HPI of 13.9 and the

<sup>1</sup> "Human Development Report 2007/2008," UNDP. Available: [http://hdrstats.undp.org/countries/data\\_sheets/cty\\_ds\\_KHM.html](http://hdrstats.undp.org/countries/data_sheets/cty_ds_KHM.html).

<sup>2</sup> "The Little Data Book on External Debt," The World Bank, 2007.

<sup>3</sup> "Recent developments in external debt," UN General Assembly, Report of the Secretary General, Document A/62/151, July 26, 2007.

<sup>4</sup> "Analysis of G8 Finance Ministers' Agreement on HIPC Debt Cancellation," United States Conference of Catholic Bishops, July 7, 2005. Available: <http://www.usccb.org/sdwp/international/g8hipc.shtml>.

<sup>5</sup> Bernhard Gunter. "MDG-Consistent Debt Sustainability: How to Ease the Tension between Achieving the MDGs and Maintaining Debt Sustainability," UNDP, January 30, 2007.

least indebted eligible HIPC countries (Rwanda and Burundi) have debt-to-income ratios of 15.<sup>6</sup> Considering that the current debt levels of HIPC countries that have received debt relief under the Multilateral Debt Relief Initiative (MDRI) are far lower than the debt levels of non-HIPC low-income countries, Gunter questions whether the HIPC program ensures the equitable distribution of development resources. In other words, HIPC eligible countries benefit from debt relief at the expense of poorer, and now more indebted countries like Cambodia. Gunter proposes that the HIPC debt-to-export ratio criterion described above, be replaced by a measure of fiscal debt sustainability.

Under the Multilateral Debt Relief Initiative (MDRI), approved in 2005, the IMF cancelled 100% of the debt stock of eligible countries. Though the original G-8 agreement only included HIPC countries, “the IMF Executive Board modified the original G-8 proposal to fit the IMF’s requirement that the use of IMF resources be consistent with the principle of uniformity of treatment. Thus, it was agreed that all countries with per-capita income of US\$380 a year or less (whether HIPCs or not) would receive MDRI debt relief financed by the IMF’s own resources through the MDRI-I Trust.”<sup>7</sup>

Cambodia and Tajikistan were the only non-HIPC countries to receive MDRI debt cancellation (though for Cambodia, this meant 100% cancellation only of debt owed to the IMF) under this policy of ‘uniformity of treatment.’ This clear precedent for debt cancellation based on a poverty criterion should be extended to other multilateral and bilateral debts (including the US\$535 Million Cambodia owes to the World Bank).

It is also important to note that though Cambodia received \$82 million in debt cancellation from the IMF in January 2006, the country still paid out more than one-third of that amount in 2005 and again in 2006 in debt service payments (\$28 million and \$31 million respectively).<sup>8</sup> The effectiveness of debt relief and U.S. foreign assistance provided to countries like Cambodia is diminished when so much money continues to be recycled out of the country in debt service payments.

#### CAMBODIA’S DEBT IS ODIOUS

##### *The Concept of Odious Debt*

In his testimony before the committee, Mr. Marciel mentioned that the Cambodian government is “reluctant to accept responsibility for debts incurred by the Lon Nol regime,” stating that “Although Cambodian observers may consider this debt illegitimate, the U.S. has on its side the international principle that governments are generally responsible for the obligations of their predecessors.” While this principle, referred to as *pacta sunt servanda*, or the “good faith” principle, has been the default in international relations, there are serious reservations about its applicability in certain instances of government succession, specifically when an authoritarian regime is succeeded by a democratic government. This debate is especially robust in regards to odious and illegitimate debts.

Odious debt is a legal term that refers to money lent to an oppressive regime and used for purposes other than the “needs and interest” of the country. Alexander Sack, a Russian jurist, was the first to define odious debt in 1927. Under his definition (one that is widely used), an odious debt is one that was contracted against the interests of the population of a State, without their consent, and with full awareness of the creditor. The term ‘illegitimate debt’ is a more expansive term which encompasses odious debt and illegal debt, in addition to war debts, debts to creditors who lent irresponsibly, or loans made for ideological or political reasons.

In 2006, the Government of Norway commissioned a paper by UNCTAD to research the concept of odious debt in international law. The resulting paper was released in July 2007.<sup>9</sup>

UNCTAD’s paper, written by University of Michigan Law professor Robert Howse, finds that “the international law obligation to repay debt has never been accepted as absolute, and has been frequently limited or qualified by a range of equitable considerations, some of which may be regrouped under the concept of ‘odiousness.’”<sup>10</sup>

<sup>6</sup>The debt-income ratio is the Net Present Value of external public and publicly-owned debt-to-gross national income (GNI); from the World Bank, 2006. See Bernard Gunter, p. 19.

<sup>7</sup>“The Multilateral Debt Relief Initiative (MDRI),” IMF Factsheet, December 2007, Available: <http://www.imf.org/external/np/exr/facts/mdri.htm>.

<sup>8</sup>The Little Data Book on External Debt, The World Bank, 2007.

<sup>9</sup>Robert Howse. “The Concept of Odious Debt in Public International Law.” UNCTAD, July 2007.

<sup>10</sup>Robert Howse. “The Concept of Odious Debt in Public International Law.” UNCTAD, July 2007, abstract.

Howse finds solid legal grounds for the concept of odious debt in scholarly literature and treaties, as well as in general principles drawn from the world's legal systems, all sources of international law recognized in Article 38 of the Statute of the International Court of Justice.

Howse identifies twelve instances in which the concept of odious debt has been used in international case law. In all of these cases, the legal issue involved proving that the debt in question was odious or ensuring that the claimant was not assuming an overly broad definition of odiousness. In none of the cases was a claim rejected on the grounds that no such concept as odious debt exists under international law. Some of the most compelling and cited cases include:

- 1898: When Spain ceded Cuba to the United States, the U.S. refused to assume Cuba's debt to Spain. The American Commissioners argued that because Cuba had not consented to the debt and because some of the money was used to suppress popular uprisings with the knowledge of the creditors, the debt was odious and should not have to be repaid. This was the first application of the term 'odious debt' in international law.
- 1923: Costa Rica refused to honor debt to the Royal Bank of Canada resulting from money that was lent to the dictator Federico Tinoco. U.S. Chief Justice William Howard Taft was the arbiter in the dispute. He determined that because the debt was not incurred in the public interest and because the Royal Bank of Canada could not show that the money had been used for legitimate purposes, Costa Rican legislation invalidating the transactions should be upheld.
- 1985–2002: South African debt incurred under the Apartheid regime is a classic example of odious debt. When UN sanctions were imposed in 1985, the South African government continued to borrow from private creditors, often using the money to repress the anti-apartheid movement. In 2002, a suit was filed in New York for apartheid reparations from private creditors in 6 Western countries on behalf of 32,000 who suffered under the regime. However because of fears that South Africa's access to credit and foreign investment would be limited as a result of legal action or debt repudiation, the South African government has distanced itself from the case and from the debt repudiation movement in general.
- 2003: The U.S. Congress introduced an initiative to cancel Iraq's odious debt after the overthrow of the Hussein regime. Treasury Secretary John Snow and Undersecretary of Defense Paul Wolfowitz both commented that Iraq should not be saddled with the debts of a past dictator. Mr. Marciel in his testimony before the committee mentioned that "the government of Iraq accepted the debts incurred by Saddam Hussein." This is not, in fact, entirely the case, as debt relief was granted to Iraq, though in the end it was justified on the grounds of debt sustainability rather than odiousness.

#### *Cambodia's Odious Debt to the United States*

As was mentioned in the written testimonies of both Mr. Marciel and Mr. Miller, Cambodia's bilateral debt with the United States stems from the Title 1, PL 480 program, which shipped agricultural commodities to low-income countries at concessional rates. The six PL 480 agreements with Cambodia were signed on three dates between January 1972 and August 1974, with delivery of commodities taking place between 1972 and 1975,<sup>11</sup> in the context of the Vietnam War while Cambodia was ruled by the Lon Nol regime. Cambodia now owes the United States US\$162 million for the unpaid portion of the principal,<sup>12</sup> and according to the United States, a total of US\$339 million, including the build up of 30 years of arrears and interest payments.<sup>13</sup>

In March, 1970 General Lon Nol took control of the Cambodian government in a military coup while the prince of the country was away visiting the Soviet Union. Lon Nol's five-year regime (called the Khmer Republic) was marked by chaos and civil war, as he fought to keep communists (Cambodian, allied with the deposed prince, and Vietnamese troops spilling over the border) at bay. By 1973, Lon Nol had lost control of most of the country, his domain reduced to the capitol city and the northwest. Yet this increasingly corrupt government continued to receive sup-

<sup>11</sup> "Cambodia: Selected Issues and Statistical Appendix," IMF Country Report No. 06/265, July 2006. Available: <http://www.imf.org/external/pubs/ft/scr/2006/cr06265.pdf>, p.28.

<sup>12</sup> Ibid.

<sup>13</sup> Scot Marciel, "The United States and Cambodia: Bilateral Relations and Bilateral Debt," Testimony before the Subcommittee on Asia, the Pacific, and the Global Environment, House Foreign Affairs Committee, February 14, 2008.



port and significant amounts of aid from the United States. In 1975, the Khmer Republic was toppled when communist troops of the Khmer Rouge captured Phnom Penh. Upon seizing control of the capital, the Khmer Rouge systematically destroyed all government documents, including any records of the PL 480 debt to the United States. Payments to the United States on outstanding debt ceased at this time.

In the early seventies the war in South-East Asia resulted in massive food aid to countries of U.S. strategic interest in the region. By 1973, 50% of US food aid was going to South Vietnam and Cambodia.<sup>14</sup> The PL 480 program was described by two analysts as “a surplus disposal instrument,” recognized as part of a food aid program that “had become a permanent feature of American government and policy.”<sup>15</sup>

According to Martin Rupiya, a 1969 study on the PL 480 program “concluded that for every pound of important staple cereals or grain imported in any country, local production would decline over the next two years by half a pound as a consequence of the reduced returns to the peasant farmer.”<sup>16</sup> There is significant doubt, therefore, that food aid under the PL 480 program was in the interest of the Cambodian people, and it may have contributed to the weakness of the domestic farming sector under Lon Nol.

In addition to arguments that the bilateral debt between the U.S. and Cambodia should be cancelled because the U.S. made loans for strategic and geo-political gains in the region, we must also consider the classification of the debt as odious on the ground that it was contracted with an illegitimate regime, one for which “the United States was the main financial and military supporter.”<sup>17</sup>

Although Cambodia accepted the inheritance of debt obligations from previous regimes at the 1995 Paris Club meeting,<sup>18</sup> according to a 2002 statement by Cambodia’s Attorney General Dr. Kao Bunbong, the Cambodian National Assembly retroactively declared the Lon Nol government to have been illegal; repayment of the loan could imply recognition of the regime.<sup>19</sup> This sentiment was reiterated by Cambodia’s Minister of Information Khieu Kanharith after the February 14th hearing before this Subcommittee, when he was quoted by Latin American News Agency outlet Prensa Latina, saying that the “Cambodian government declared the illegal administration of the country was responsible for the indebtedness and, therefore, the current executive has no responsibility whatsoever in the liquidation of such an amount.”<sup>20</sup>

Kenton Clymer, Chair of the Department of History and Presidential Research Professor at Northern Illinois University describes in detail the shortcomings of the Lon Nol regime in his book on United States/Cambodia relations. According to Clymer, Lon Nol announced that “democracy was no longer appropriate for Cambodia” and he began shortly after the coup to rule by decree.<sup>21</sup> Furthermore, according to Clymer “the popular understanding in the United States was that Lon Nol had abolished the National Assembly and assumed dictatorial powers.”<sup>22</sup> While the National Assembly was not officially abolished, Lon Nol effectively ruled without its input, while his brother Lon Non “employed assassination, bribery and slander to eliminate almost all capable leaders from the government.”<sup>23</sup> Though Lon Nol held elections in 1972, “the vote was rigged,” and “Lon Nol actually received less than 20 percent and perhaps only 15 percent of the vote” which he claimed to have won by 54 percent.<sup>24</sup> After a Cambodian Air Force pilot stole a plane and bombed Lon Nol’s residence in 1973, Lon Nol “responded by suspending civil rights, prohibiting meetings on the street of more than five people . . . arresting leaders of the teach-

<sup>14</sup> Martin R. Rupiya. “Food Aid: The Implications for Food Security in Africa,” *African Security Review* 13(1), 2004, p. 86.

<sup>15</sup> Hans Wolfgang Singer & John Wood. “Food Aid: The Challenge and the Opportunity,” Oxford: Clarendon Press, 1987, p.22–23.

<sup>16</sup> Martin R. Rupiya. “Food Aid: The Implications for Food Security in Africa,” *African Security Review* 13(1), 2004.

<sup>17</sup> Ker Munthit, “Cambodia: No rush to repay US debt,” Associated Press, *BusinessWeek*, February 15, 2008.

<sup>18</sup> “Cambodia: Selected Issues and Statistical Appendix,” IMF Country Report No. 06/265, July 2006. Available: <http://www.imf.org/external/pubs/ft/scr/2006/cr06265.pdf>, p. 33.

<sup>19</sup> “Lon Nol Debt Revived,” *Washington Indochina Update #11*, Fund for Reconciliation and Development, November, 2002. Available: <http://www.ffrd.org/washington/nov2002.htm>.

<sup>20</sup> “Cambodia Rejects US Claim on Debt,” *Prensa Latina*, February 19, 2008. Available: <http://www.plenglish.com/article.asp?ID={03EF4D48-F4BB-429E-A0AB-87F798CDC10A}&language=EN>.

<sup>21</sup> Kenton Clymer. “The United States and Cambodia, 1969–2000: A troubled Relationship” Routledge, 2004, p. 48.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid* at p.70.

<sup>24</sup> *Ibid* at p. 55.

ers' strike, closing newspapers and hauling editors before military courts . . ." <sup>25</sup> In short, the Lon Nol regime lacked accountability to the population and began to decline in legitimate authority and increase in corruption from the moment of the coup. Because loans contracted with an illegitimate government are a prime example of irresponsible lending, they should be void under international law.

PL 480 loans the United States made to an illegitimate government in Cambodia as part of a strategy to bolster the country against communism, fall into the category of illegitimate debts, contracted for ideological or political reasons. In addition, the debt could be considered odious on the grounds that it was contracted against the interests of the population of the state, both because of the "dumping" of U.S. agricultural commodities without considering implications to local farmers, and because the loans were made to a corrupt, dictatorial regime that has retroactively been declared illegal by elected representatives in Cambodia's National Assembly. Rather than pushing for repayment for what is plausibly an odious debt in what is certainly a very poor country, the US should cancel the debt and allow the country to increase its social spending and make progress toward eradicating extreme poverty.

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<sup>25</sup> Ibid at p. 67–68.

**“The Human Rights Situation in Central Asia”**

**Testimony prepared for the  
Asia, Pacific and Global Environment Subcommittee of the  
House Foreign Affairs Committee**

**Jeff Goldstein  
Senior Program Manager, Central Asia  
Freedom House**

**March 6, 2008**

Central Asia is a strategically important and potentially unstable region that, taken as a whole, is one of the most repressive areas in the world today. Central Asia is also a potential breeding ground for political extremists, and the despotic policies of the governments in the region only help to create conditions that are likely to radicalize segments of the population. In our annual survey of political rights and civil liberties, *Freedom in the World*, Freedom House rates Kazakhstan, Tajikistan, Turkmenistan and Uzbekistan as “Not Free,” with both Turkmenistan and Uzbekistan belonging to the handful of states that received the lowest possible scores for both Political Rights and Civil Liberties. While Freedom House continues to rate Kyrgyzstan as “Partly Free,” we witnessed a clearly negative trend there in 2007, including restrictions on the opposition in the December legislative elections, which resulted in an excessive strengthening of executive power and a reduction of political pluralism.

Given the importance of the region, its fragility and the increasingly repressive nature of all the region’s governments, Freedom House is concerned by the declining resources the U.S. government is devoting to assistance programs in Central Asia. The actual appropriation for Freedom Support Act assistance to the five states of Central Asia has declined from just over \$100,000,000 in FY 2006 to barely \$80,000,000 in FY 2008. The FY 2008 appropriation included a particularly significant drop in funding for assistance to promote just government and democracy in the region. This precipitous decrease in assistance funding hamstringing the U.S. effort to promote stability, democracy and prosperity in this critical region. For our part, Freedom House continues to implement programs in Central Asia to support the brave men and women of the region who are struggling in the face of real risks to improve human rights situation, foster a free media and fight against the scourge of torture.

### Political Rights and Civil Liberties in Central Asia

The year 2007 witnessed what was an almost across-the-board decline in political rights in Central Asia. In the spring, Kazakhstan adopted a constitutional amendment that opened the way for President Nazarbaev to become President-for-Life. In December, Uzbekistan went a step further, failing to amend the constitution before re-electing President Karimov to a third term, even though the Constitution of Uzbekistan includes a clear two-term limit. The state of presidential politics in the region is highlighted by the fact that the one exceedingly small example of progress was in Turkmenistan, where for the first time voters could choose among multiple candidates for president. This choice was more illusory than real, however, as all of the candidates represented the ruling – and only legal – party and all but the winner were virtual unknowns.

After amending the constitution to introduce a party-list electoral system, Kazakhstan held parliamentary elections in 2007 that fell decidedly short of international standards and produced a throwback to the Soviet era: a one-party parliament. At year's end, Kyrgyzstan held parliamentary elections that also appeared to produce a one-party parliament until the pro-presidential party jumped through a series of questionable legal hoops to include two small parties in the parliament while still keeping out the party that won the second largest share of the vote.

The situation concerning civil liberties in Central Asia is slightly more nuanced, though here too 2007 saw more backsliding than progress. Although it is not uniform among the five states of Central Asia, in general the baseline of respect for civil liberties is very low. Throughout the region, television -- the main source of news and information for the vast majority of Central Asians -- is firmly controlled by government. This means that one of the key mechanisms through which societies can hold governments accountable -- expose failings or incompetence -- is absent in a region of 60 million people. The judiciaries and legislatures in all five Central Asian states are under the control of the executive branch. Corruption is widespread throughout the region while torture serves as the police's primary investigatory tool and is endemic in all Central Asian countries' penal systems as well. In general, the lack of democratic accountability leaves the population of Central Asia, as well as those who seek to do business there, subject to regimes that are capricious, inefficient and corrupt.

In Kazakhstan, non-governmental organizations have some room to operate, although government pressure is particularly strong on NGOs that pursue civil rights issues. Since the 'Color Revolutions' in Georgia and Ukraine, and the 'Tulip Revolution' in Kyrgyzstan in March 2005, human rights NGOs have become the target of considerable negative publicity in the national media. President Nazarbaev has warned NGOs obtaining foreign funding that they will

be “closely watched.” The Kazakhstani authorities strictly restrict the right to public assembly and have repeatedly closed down websites that publish articles critical of the government. While the government boasts of its success in preventing inter-ethnic discord, Kazakhstan’s self-proclaimed record of ‘ethnic harmony’ has begun to show cracks. Several recent local clashes in rural areas escalated into ethnic conflicts due to the failure of the local authorities to address minority groups’ social grievances. There have also been violations of the freedom of religion, most notably the bulldozing of homes belonging to the Hare Krishna Society and the transfer of the Society’s farm in the Karasai region to the state.

Kyrgyzstan’s civil society is the most vibrant in the region, and the government sometimes responds to civil society’s recommendations, most recently by ratifying the Optional Protocol to the Convention against Torture. Nevertheless, the general trend of strengthening government control in the country is also seen in the area of civil liberties, most egregiously in the decision by the Bishkek city council in late 2007 to ban all demonstrations in the city.

In February 2007, Tajikistan’s parliament approved a new “Law on Civil Society Organizations,” which poses a threat to freedom of association and speech and serves as a means for the government to restrict and control non-governmental organizations. The law required that all NGOs be re-registered by state authorities. As a result of this process, by the end of 2007 the number of registered Tajik NGOs had decreased by nearly two-thirds. The re-registration process also allows the authorities to demand inordinate and arbitrary amounts of information from NGOs. President Rakhmon adopted a highly nationalistic policy in 2007, symbolized by his dropping the russifying “-ov” suffix from his last name. A part of this new trend has been an increase in restrictions on religious groups, which appears to be linked to greater success by missionary groups, most of them Christian, in finding converts, a phenomenon which has offended local Muslim leaders and the families of those converted.

In the fifteen months since President Niyazov’s death, his successor, President Berdimuhamedov has demonstrated that he understands that some of the “Turkmenbashi’s” most egregious policies were profoundly harmful for Turkmenistan. As a result, Berdimuhamedov’s government has taken positive steps, such as ending internal travel controls and returning to a four-year system of university education. Berdimuhamedov has traveled abroad extensively and shown an interest in lifting Turkmenistan out of its self-imposed isolation. Nevertheless, to date the measures taken by the authorities have been very limited, and there have also been some signs of regression, most notably the president’s threat to remove satellite TV receivers-- the population’s main source of information not controlled by the state -- from buildings in Ashgabat. These developments do not -- at least not yet -- indicate that the government is committed to a reform path.

The Uzbekistani government continued its harsh, post-Andijon crackdown against both local and foreign-based NGOs during 2007. A small group of human rights activists continues to defy

government pressure and report on the human rights situation in Uzbekistan. Groups such as the Tashkent Bar Association and Mothers against the Death Penalty have even achieved some successes in their efforts to advocate for legislative reform in the human rights field, including the passage in 2007 of laws instating habeas corpus and abolishing the death penalty. Late in the year and increasingly so far this year, President Karimov has demonstrated a desire to recalibrate his relations with the United States and the EU as part of his on-going policy of balancing relations with those countries, Russia and China. As a gesture of good will, he has released a handful of imprisoned human rights advocates. There are no indications that this move is anything more than a gesture, however. Most notably, Karimov has failed to take any action to address Western demands that he allow an independent investigation of the violence in Andijon in 2005, which resulted in the deaths of hundreds, most of whom were peaceful demonstrators or simply onlookers. Moreover, there are strong suspicions that the Uzbekistani government was behind the late-2007 murder of independent journalist Alisher Saipov in southern Kyrgyzstan. Saipov's colleagues believe his murder was not only meant to silence a valiant critic of the Uzbekistani government but to intimidate his journalistic colleagues as well.

#### Kazakhstan and the OSCE Chairmanship

Kazakhstan's campaign to become Chairman-in-Office of the Organization for Security and Cooperation in Europe (OSCE) is an issue with major potential consequences for the human rights situation in Central Asia and beyond. In November, the OSCE's Ministerial Council concluded – correctly in Freedom House's view – that Kazakhstan's performance in fulfilling its basic OSCE commitments was not sufficient to justify choosing Kazakhstan to be Chairman-in-Office in 2009. Instead, Kazakhstan will chair the organization in 2010. Prior to that, Kazakhstan's Foreign Minister has committed his country to amend the Law on Elections, the Law on Political Parties and the Law on Media to bring them into compliance with international norms. In a statement that has potential consequences for human rights throughout the region and beyond, the Minister also committed Kazakhstan, once it becomes Chairman-in-Office, to support the work of the OSCE's Office of Democratic Institutions and Human Rights (ODIHR) under the terms of its current mandate. This is a particularly important promise, as in the past Kazakhstan has lined up in support of Russian initiatives that would gut ODIHR's ability to carry out its essential work observing elections in OSCE participating states, supporting democratization and helping to improve human rights standards in the OSCE region.

It is unfortunate that Secretary of State Rice has not attended OSCE Ministerials, as this conveys the message that the U.S. does not consider this to be an important venue. Nevertheless, Freedom House applauds the work of the U.S. government in helping to secure these commitments from the Government of Kazakhstan, although Kazakhstan's record to date gives reason for concern that major progress in democracy and human rights appears unlikely in such a

short timeframe. Nevertheless, these commitments provide important leverage and we will closely monitor Kazakhstan's progress – or lack of progress – in fulfilling these promises. We also urge both the executive and legislative branches of the U.S. government to make clear to their Kazakhstani counterparts the importance of fulfilling these commitments for the future of U.S.-Kazakhstani relations.

#### U.S. Assistance Policy in Central Asia

Following the September 11, 2001 attack on the United States, the U.S. Government more than doubled assistance to the states of Central Europe under the Freedom Support Act to over \$300 million in FY 2002. Over the intervening six years, however, the sum of assistance budgeted for the region has declined precipitously, to barely \$100 million in FY 2006 and barely \$80 million in FY 2008. The decline has been particularly steep for funds devoted to projects that seek to support democracy and governance in the region. Whereas more than \$31 million was appropriated to support such projects in Central Asia in FY 2006, the FY 2008 appropriation includes less than \$28 million under this heading, a decline of more than 10%.

Central Asia is strategically important to the United States by virtue of its location – bordering both Iran and Afghanistan – its wealth in oil, gas and other natural resources, the fragility of its political systems and the possibility that the region could become another major breeding ground for radical militants. But it is not enough to for the U.S. Government simply to state that Central Asia is a region of key strategic interest. The U.S. Government needs to put sufficient resources behind these declarations. Freedom House strongly urges the Administration and the Congress to restore assistance funding for Central Asia in FY 2009, particularly for the work of promoting democratization, good governance (a pre-requisite for long-term economic well-being) and improved human rights performance, without which the “stability” of which the region's autocrats boast will turn out to be a short-term illusion.

